

**GOVERNMENT OF INDIA  
MINISTRY OF COMMERCE & INDUSTRY  
DEPTT. OF COMMERCE  
DIRECTORATE GENERAL OF ANTI-DUMPING & ALLIED DUTIES**

**NOTIFICATION**

**NEW DELHI, the 25<sup>th</sup> August, 2011**

**FINAL FINDINGS**

**Subject: Final Findings of the Anti Dumping investigation concerning imports of Opal Glassware originating in or exported from China PR and UAE.**

**14/24/2010-DGAD** – Having regard to 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 Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules thereof, as amended from time to time (hereinafter referred to as the AD rules).

2. Whereas M/s La Opala RG Ltd. on behalf of the domestic industry (herein after referred to as the Applicant) has filed an application before the Designated Authority (hereinafter referred to as Authority), in accordance with the Customs Tariff Act, 1975 as amended from time to time and Customs Tariff (Identification, Assessment and Collection of Anti Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 as amended from time to time (herein after referred as Rules), alleging dumping of Opal Glassware, (hereinafter also referred to as the subject goods), originating in or exported from China PR and UAE (hereinafter referred to as subject countries). The embassies of subject countries were notified about the receipt of fully documented application as per Rule 5(5).
3. The Authority on the basis of sufficient evidence submitted by the Applicant to justify initiation of the investigation, decided to initiate the investigation against imports of the subject goods from the subject countries. The Authority notified Embassies of the subject countries in India about the receipt of the application claiming, inter alia, allegations of dumping and consequent injury to the domestic industry before proceeding to initiate the investigation in accordance with Rule 5(5) of the AD Rules. The Authority issued a public notice dated 26<sup>th</sup> August 2010 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 AD Rules to determine the existence, degree and effect of alleged dumping and to recommend the amount of anti-dumping duty, which, if levied, would be adequate to remove the injury to the domestic industry.

**A. PROCEDURE**

4. The procedure described herein below has been followed in the present investigation:
- i. The Designated Authority (hereinafter referred to as the Authority), under the above Rules, received a written application from La Opala RG Limited on behalf of the domestic industry, alleging dumping of 'Opal Glassware' (hereinafter also referred to as the subject goods); originating in or exported from China PR and UAE (hereinafter also referred to as the subject countries).
  - ii. The Authority notified the Embassies of the subject countries in India about the receipt of the anti-dumping application before proceeding to initiate the investigation in accordance with sub-rule (5) of Rule 5;
  - iii. The Authority on the basis of sufficient evidence submitted by the applicant on behalf of the domestic industry issued a public notice dated 26<sup>th</sup> August 2010 published in the Gazette of India, Extraordinary, initiating Anti-Dumping investigations concerning imports of 'Opal Glassware' originating in or exported from subject countries, in accordance with the sub-Rule 6(1) of the AD Rules to determine the existence, degree and effect of alleged dumping and to recommend the amount of anti-dumping duty, which, if levied, would be adequate to remove the injury to the domestic industry.
  - iv. The Designated Authority sent a copy of initiation notification dated 26<sup>th</sup> August 2010, to the Embassies of the subject countries in India, known exporters from subject countries, known importers/ users and the domestic industry as per the addresses made available by the applicant and requested them to make their views known in writing within 40 days from the initiation notification.
  - v. The Authority provided a copy of the non-confidential version of the application to the known exporters and to the Embassies of the subject countries in India in accordance with Rule 6(3).
  - vi. The Embassies of the subject countries in India were informed about the initiation of the investigation in accordance with Rule 6(2) of the AD Rules with a request to advise the exporters/producers from their country to respond to the questionnaire within prescribed time limit. A copy of the letter and questionnaire sent to the exporters was also sent to them along with the names and addresses of the known exporters.
  - vii. The Authority sent questionnaires to elicit relevant information to the following known exporters in subject countries in accordance with Rule 6(4) of the AD Rules:
    - a. Arc International Middle East, East LLC, UAE.
    - b. Sanghai Family Industrial Development Co. Ltd., China PR
    - c. Wenzhou Huishunda Industrial Co. Ltd., China PR
    - d. Sanyam Ceramics Ltd., China PR
    - e. Shenzhen Guanagtong Co. Ltd., China PR

- f. Xianning Huimeida Industry & Trade Co. Ltd., China PR
- g. Shaoxing Jielong Glassware Co. Ltd., China PR
- h. Anhui Deli Glassware Co. Ltd., China PR
- i. Yiwn City Longfei Imports and Exports Co. Ltd., China PR
- j. Wenzhou Cathylin International Trade Co. Ltd., China PR
- k. Anhui Sunhere, China PR
- l. Zhejiang Chengtai, China PR
- m. M/s Whole Wealth Limited, China PR

viii. In response to the above notification, following exporter has responded:

- a. Wenzhou Huishunda Industrial Co. Ltd., China PR

ix. 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 AD Rules:

- a. Talwar Agencies Pvt Ltd., New Delhi
- b. Home Maker Enterprises Pvt Ltd., New Delhi;
- c. Taneja Crockery Pvt Ltd. New Delhi;
- d. Chiraj Appliances Pvt Ltd. Kolkata;
- e. Paras International New Delhi;
- f. Baron Agencies Pvt. Ltd. Kolkata;
- g. Aditya Promoters Ltd. New Delhi;
- h. Seven Seas Corporation, Thane, Maharashtra;
- i. Laxmi Crockery Pune Pvt. Ltd., Pune, Maharashtra;
- j. Vishal Retail Ltd., New Delhi;
- k. Siddharth Enterprises, Baruch, Gujarat;
- l. Merge Enterprises, Mumbai, Maharashtra;
- m. Raj Agencies, Pune, Maharashtra;
- n. Hamilton House wares Pvt. Ltd., Dadra;
- o. K.P. International, New Delhi;
- p. Trade Trekkers, New Delhi;
- q. W.K.C Glassware Pvt Ltd., New Delhi;
- r. Rudra International; New Delhi.

x. In response to the above notification, the following importers have responded:

- a. M/s Hamilton Housewares Private Limited
- b. M/s Aditya Promoters Limited

xi. The Authority had 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. A Market Economy Treatment (MET) questionnaire was forwarded to all the known exporters/producers and Embassy of China PR in New Delhi. The Authority informed known exporters that it proposes to examine the claim of the applicants in the light of paras 7 and 8 of Annexure I of the AD Rules. The exporters/producers of the subject goods from China PR were therefore requested to furnish necessary information/sufficient evidence as mentioned in sub-paragraph (3) of paragraph 8 of the Annexure of the AD Rules to enable the

Authority to consider whether market economy treatment be granted to cooperative exporters/producers from China PR.

- xiii. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of imports of subject goods for the past three years, including the period of investigation.
- xiv. Optimum cost of production and cost to make & sell the subject goods in India based on the information furnished by the applicant on the basis of Generally Accepted Accounting Principles (GAAP) was worked out so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to Domestic Industry.
- xv. Preliminary Findings recommending imposition of provisional anti dumping duty in respect of the subject goods from the subject countries were issued by the authority on 27/06/2011.
- xvi. The authority conducted an oral hearing of interested parties on 29/07/2011, subsequent to which written submissions and rejoinders have been submitted by the interested parties. These submissions, to the extent relevant, have been duly examined/addressed in this findings.
- xvii. Verification of data and information including those relating to the claim for market economy status submitted by the cooperative producer / exporter from China PR has been carried out.
- xviii. A Disclosure statement was issued on 16.08.2011 as mandated under Rule 16, disclosing essential facts to form the basis of this Final Findings. The comments received thereon, to the extent relevant, have been examined in this findings.
- xix. Investigation was carried out for the period starting from 1st April 2009 -31st March 2010 (Period of Investigation). The examination of trends, for the purpose of injury analysis, covered the periods 2006-07, 2007-08 and 2008-09 and the Period of Investigation.
- xx. \*\*\*in this notification represents information furnished by an interested party on confidential basis, and so considered by the Authority under the AD Rules.

**Submissions made by Ministry of Economy, Government of UAE:-**

- 5. The following submissions were made by the Ministry of Economy, UAE:-
  - i) The advance intimation was received by UAE Embassy in New Delhi on 1.9.2010 and the case was initiated on 26.8.2010. This is inconsistent.
  - ii) The product scope is very broad and a wide range of product types are covered in that. These individual products are not alike.
  - iii) The request of the petitioner to examine the performance of two plants separately for the very peculiar facts of the present case will give a distorted

- picture of the domestic industry as it includes a new plant set up in September, 2007.
- iv) Exports made by UAE have not caused injury to the domestic industry as the UAE export prices were rising significantly over the injury period. It is, inter-alia, stated that average price of imports from other countries was lower and share of UAE imports in total imports has declined.
  - v) The injury claimed by the petitioner is not supported by the figures presented in the petition. The complaint has not provided evidence of alleged material injury. On the other hand, the figures point to healthy domestic industry with increase in volume and volume of domestic sales, production capacity and decrease in stock.
  - vi) The methodology used in the construction of normal value based on domestic industry's cost of production has been disputed.
  - vii) The estimated landing charge of export is highly exaggerated. The alleged injury is attributable to factors other than imports and no causality is found.

#### **Examination by Authority:-**

6. The Authority has examined the above issues as under:-
- i) Advance Intimation letter to the Embassy of UAE in New Delhi was issued by e.mail on 23.8.2010 and the proceedings were initiated on 26.8.2010. Thus, the Government of UAE was notified prior to initiation of the investigation.
  - ii) The Authority considers that the product under consideration in the present case in Opal Glassware which is produced and sold in different types. Different types of Opal Glassware constitute one product in terms of raw materials, general usage (i.e. serving ) and customs classification. While the specific uses of different Opal Glassware products such as bowls, plates, cups etc. may be different, it does not render different types of articles. Different Opal Glassware products are sold in 'sets' which may offer a wide range of the product under consideration and the manufacturers can readily switch from one type of Opal glassware to the other. However, the Authority has considered the cost / price of the subject goods on the basis of weight rather than number / sets so as to obviate the problem posed by the variety of sizes/types involved in the latter.
  - iii) The Authority has carried out the injury assessment for the domestic industry as a whole and not plant-wise. The cost of production of new plant has not been considered in isolation for this purpose.
  - iv) The Authority has undertaken a cumulative assessment of effects of imports from subject countries on the domestic industry. The Authority is required to do so under the Rules as the conditions specified in the Rules are met in the present case.
  - v) The various parameters of injury including relevant economic parameters have been duly examined by the Authority at appropriate places in these findings.
  - vi) The Authority notes that none of the producers / exporters from UAE has cooperated in the present investigation and provided requisite information relating to normal value in the prescribed form and manner. In the absence of evidence of normal value based on domestic selling price or actual cost of

production of a manufacturer in UAE, the Authority has constructed the normal value on the basis of best information available on record.

- vii) The Authority notes that no exporter from UAE has furnished exporters questionnaire response indicating export price. Therefore, the Authority intends to determine the export price for UAE as per the methodology indicated in the relevant para of the present findings. The causal link has also been examined in the present findings.

#### **Post Preliminary Finding Submissions:-**

7. Post Preliminary Findings, Following submissions have been made by the UAE Authorities:
- i) UAE Ministry of Economy has reiterated that no prior notice about the initiation of the AD investigation has been received by the UAE Embassy in Delhi.
  - ii) No communication of the preliminary findings has been officially received by the UAE Authorities. This is a procedural violation.
  - iii) The alleged injury caused to the domestic industry is not established. In this regard no explanation has been given regarding the indicators which have shown a positive trend during the POI such as domestic sales, capacity installed, selling price, production, employment and wages.
  - iv) The causal link is not established between the increase of imports of the subject product and the alleged material injury. The finding at page 22 (ii) of PF that the domestic industry has been forced to reduce the prices is misleading as there was continuous increase in selling price during the injury period.
  - v) The non attribution analysis is incomplete as no explanation has been given regarding the impact of over capacity on domestic industry. Further, no explanation has been given regarding imports from third countries whose prices are lower than the import prices of UAE.

#### **Examination By Authority:-**

8. The Authority has examined the above issues as under:
- i) The Authority reiterates the position as at para 6(i) above. In any case, it is noted that the Government of UAE have duly participated in the investigation and made submissions both before and after the Preliminary Findings. Those submissions have been duly taken on board and examined in the Authority's Preliminary Findings and in the present Findings.
  - ii) The Preliminary Findings were published in the Gazette of India and also uploaded on the website of The Department of Commerce, Government of India. Thus, the findings were in public domain.
  - iii) It is not necessary that material injury to the domestic industry is to be established on all economic parameters. The AD Rules mandate only an evaluation and examination of all relevant economic factors and indices having a

bearing on the state of industry. In the present investigation, injury is established on vital economic parameters such as profitability, cash flow, inventories, return on capital employed, capacity utilization which have resulted from price under cutting and price suppression effects of the dumped imports from the subject countries.

- iv) The causal link issue have been examined in the appropriate place in this Findings. The finding at page 22 at sub para (ii) of Preliminary Findings refers to the fact that the domestic industry had reduced the selling price vis a vis the increase in the cost of sales. The same is appropriately reflected in this Final Findings.
- v) As regard the over capacity of the domestic industry, it is noted that the capacity of the domestic industry during POI is at the same level as the demand. Therefore, it is not the case of over capacity. The imports from other sources are at a price higher than the cumulative price from the subject countries.

### **Issues raised by other Interested Parties**

- 9. The interested parties have raised following issues with regard to the present investigation:
  - (a) There is no evidence of factory shut down. The Director's report in the annual report or intimation to stock exchanges does not show shutdown of factory.
  - (b) The domestic industry has resorted to excessive confidentiality in disclosing the information in the petition. Annual reports have not been provided for the entire injury period.
  - (c) Methodology involved in segregating the imports from the raw import data has not been disclosed in the application, nor the raw data has been made available to the importers. Soft copy of the import data has not been made available to the interested parties. This is important in view of the fact that raw data includes all kinds of Glassware, whereas the scope of the product under consideration is limited only to glasswares.
  - (d) Separate margins have to be determined for Opal Glasswares made out of the "Spin Technology"
  - (e) Essential documents that are being relied upon by Directorate General of Anti Dumping and Allied Duties and Domestic Industry in the investigation has not been provided despite prayers in public hearing.
  - (f) Importer has requested Domestic Industry to provide IBIS data in public file. For this DI made submission that they are bound to provide that evidence only which is reasonably available with them. Either meaning of this submission is that which they procure is unreasonably available with them.

- (g) The reason for making available the import statistics are :
- a. Evidence which is being relied upon must be made available to the party which may be adversely affected by that evidence.
  - b. To find the methodology adopted for filtering the raw data.
  - c. Designated Authority is relying on data obtained from DGCI&S after refining it without disclosing the methodology adopted for doing refinement.
- h) While the data obtained from DGCI&S has been adopted by DGAD in Preliminary Finding, shows imports from 39 countries only imports from 7 countries have been considered in the Preliminary Finding. Hence, the Anti Dumping Agreement filed by Domestic Industry is in correct.
- l) If Designated Authority finds the claim for providing raw data is in excess of the rights granted, Designated Authority may pass speaking order to that effect so that appropriate legal action may be taken.
- (j) Import Statistics provided by the petitioner is blatantly erroneous and the investigation should not have been initiated based on the statistics provided.
- (k) Import statistics included products other than Product under Consideration.
- (l) Country of origin has been altered to falsely construct causal link.
- (m) Determination of export price is incorrect. Domestic Industry has through some means converted all these denominations into 'kgs'. The methodology adopted in such conversion is incorrect and without scientific basis.
- (n) Though Domestic Industry is suppose to file information for 4 yrs, including POI, financial statements for POI alone have been made available.
- (o) Claim of injury has no co-relation to the position shown in the financial statement. Published annual reports of the petitioner shows profits, whereas the petitioner has claimed financial losses.

### **Examination by the Authority**

10. The issues raised by other interested parties are examined as under:
- (a) The production suspension was seen by the verification team in the premises of the petitioner's factory. No interested party has established any statutory requirement to report suspension of production either to stock exchange or in annual report.
  - (b) It is noted that the petitioner has made available the financial statements for the entire injury period.

- (c) The authority notes that the petitioner has made available the methodology followed in segregating the imports of the subject goods from the raw import data.
- (d) The Authority proposes to make such a comparison only in respect of China PR from where producers / exporters have submitted requisite information in the form of EQR (Exporter Questionnaire Response) for the purpose. However, in case of UAE from where no producer / exporter has furnished relevant information, It is not feasible for the Authority to determine separate dumping and injury margin for spin and press products as the import data does not distinguish products on the basis of technological process through which it has been manufactured.
- (e) The Rules permit the Designated Authority to collect information from its own sources. Further, such information collected by the Designated Authority is not required to be disclosed to the interested parties. The Designated Authority is entitled to collect information from its own sources and record findings on that basis. Further, the Designated Authority is not obliged to disclose information which is otherwise not in public domain.
- (f) The Authority notes that the domestic industry has provided information showing country wise volume and value of imports in discharge of requirements of Part-1 of the application proforma. The domestic industry has also made available transaction wise listing of imports of the product under consideration which has formed the basis for determination of volume and value of imports contained in the petition.
- (g) The domestic industry has already made available both the transaction wise imports listing and import statement which has been explained in the letter earlier filed by the domestic industry. The importers have got opportunity to comment on the same. The Designated Authority is not obliged to disclose information procured by the authority which is not in public domain
- (h) The Authority has considered imports of product under consideration alone. The DGCI&S data at customs sub heading 7013 include all types of glassware products-both PUC and non-PUC. Therefore, DGCI&S data shows 39 countries, whereas sorted data of IBIS provided in the petition contains only 7 countries from where the PUC has been imported. Authority notes that imports of non-PUC are not relevant for the present purpose.
- (i) As the raw bill of entry wise data of DGCIS is not in public domain, the same has not been made available to interested parties.
- (j) The Authority has taken into account only those import transactions that pertain to the product under consideration particularly when there is no dedicated ITC HS code for the subject goods. Authority also notes that the petitioner has made available bill of entry wise imports data relied in their petition. The interested parties have argued that such import data was understated and did not include

their own imports. The investigation has now shown that the actual volume of imports is higher than what the domestic industry had claimed.

- (k) The Authority has taken into account only those import transactions that pertain to the product under consideration particularly when there is no dedicated ITC HS code for the subject goods.
- (l) It has not been established that the domestic industry has altered country of origin in any import transaction.
- (m) Export price will be determined based on the information made available by the responding Chinese exporter which has been duly verified. As regards export price for non cooperative exporters of China, the authority proposes to rely upon the representative lowest export price of the cooperative exporter of China PR. As regards UAE, the authority has determined export price on the basis of best available information.
- (n) The petitioner has submitted a copy of the Annual Reports for the entire injury period, which have been made available to the interested parties through public file.
- (o) The authority has relied upon verified information with regard to profits of the domestic industry during the relevant period. Profits in annual reports includes profits on stocks of the last year, which were valued at a price much below cost of production.

#### **Post Disclosure submissions of Interested parties**

11. The following are the post disclosure submissions of interested parties:-
- a. Requirement of Rule 16 has not been complied with. Export data being relied upon in the investigation to determine dumping margin, injury and causal link not made available.
  - b. Request for another public hearing.
  - c. Investigation being conducted in a haste, thus, is endangering justice.
  - d. Suspension of production have not been reported to SEBI or in the annual report, which are necessary legal requirements to report such instances and therefore the claim of the domestic industry is false.
  - e. Methodology adopted in filtering the raw data was not made available.
  - f. Petitioner had filed import statistics from IBIS. The Authority has adopted DGCI&S for injury analysis.
  - g. The petitioner has changed country of origin in the import data.
  - h. Claim of Injury contradicts profitability claim in financial statements. Incorrect conclusion has been drawn by the Authority that inventories were valued at

prices much below cost of production. Financial statements provided to us do not reflect any such assertion. There is no disclosure of any write off of the inventories in the financial statements.

- i. Disclosure of financial statements by the petitioner after due date of filing rejoinder.
- j. The domestic industry has argued that the ADD should be imposed on ad-valorem basis in view of significant difference in the price of the product produced through two technological processes.

### **Examination by the Authority**

12. The Authority has examined the above mentioned issues as follows:-

- a. The Authority has relied upon information provided by the responding exporter and the IBIS information. IBIS information provided by the petitioner was made available to the interested parties in the petition itself. The actual information provided by the responding exporter and importer cannot be disclosed to other interested parties, as these parties have claimed confidentiality. The Authority notes that Rule 7 proscribes disclosure of any confidential information either in disclosure statement or in the final findings. It is clarified that since IBIS has captured much higher volume of imports as compared to DGCI&S, the Authority has adopted IBIS data for the purpose of present investigation.
- b. The Authority notes that oral hearing in the present case was held on 29.07.2011, where the interested parties were heard at length. No new grounds have been advanced by the interested parties to warrant another oral hearing. Further, issues raised by the interested parties have been adequately addressed in the final findings.
- c. The Authority notes that the investigations are being conducted within the time frame provided under the law. Some of the interested parties chose not to respond to the notice of initiation and responded to the Authority at a quite belated stage, almost after nine months from the date of initiation. No cogent reasons have been given for such a belated response. In any case, the Authority has addressed the issues raised by the interested parties.
- d. Some interested parties have repeated their argument that since the domestic industry has not reported suspension of production before the concerned authority, the claim cannot be accepted. The Authority notes that finding on material injury has been recorded on the basis of trends in production, sales and capacity utilisation, where all legal requirements have been complied with. Production suspension is only an additional ground claimed by the petitioner. Further, Authority has recorded these findings on the basis of information filed by the interested parties and information verified by the Designated Authority. The

Authority has conducted on the spot verification at the premises of the domestic industry and has seen the evidence in support suspension of production by the domestic industry.

- e. The petitioner had made available detailed transaction wise IBIS data. The interested parties demanded an explanation on how the import data was analysed to arrive at volume and value of imports. The domestic industry provided a note containing methodology adopted for analysing the import data and determining volume & value of imports. The same was made available to interested parties through the public file.
- f. It is clarified that the Authority has adopted IBIS data for determination of volume and value of imports, as IBIS has captured much higher volume of imports as compared to DGCI&S.
- g. The Authority has verified the import data and found that there is no change made by the petitioner. There are a few import transactions wherein the product description states "France", but country of origin states UAE or China. These imports have to be included within the subject countries for the present purposes
- h. The Authority has duly verified the claim of profitability made by the petitioner and has recorded the preliminary findings and the present findings on the basis of such verified claims. It is noted that the petitioner is producing other products also.
- i. With regard to inventory valuation, the Authority notes that the petitioner has provided sufficient evidence showing that its inventory valuation does not include full cost of production; including selling, general & administrative costs and interest costs. The Authority also notes that the annual report does not show that the statutory auditors have opined that the inventory valuation is inconsistent with the accounting standards.
- j. The Authority also notes that the petitioner company is not a single product company. It has earned revenue and profits from other operations as well, such as windmill operation.
- k. It has been argued on behalf of importers that one of the essential documents to be filled along with the petition (i.e., annual report) was made available to them on 8th Aug 2011 (i.e., 11 months and 12 days after the investigation initiation ). It is further argued that the interested parties were not given opportunity to provide the comments on such information filed so late. The Authority notes that the relevant information for the POI had been filed by the domestic industry along with the application. However, the importers themselves have participated in the proceedings at a belated stage of the investigation. The investigations in the present case were initiated vide notification dated 26<sup>th</sup> Aug., 2010 and the importer responded for the first time to the Designated Authority as late as on 28.07.2011, i.e., after 11 months from the date of initiation and after the

preliminary findings were issued. Further, the petitioner had made available its non confidential version at the time of filing of petition, a copy of the same was made available to the interested parties through public file and a copy was forwarded to the foreign producers along with notice of initiation. None of the interested parties raised the issue regarding annual reports of the petitioner till issuance of the preliminary findings.

- I. The domestic industry's request for ad-valorem duty has been duly addressed in the relevant part of the findings.

## **B. Product under consideration**

13. The product under consideration in the present investigations is Opal Glassware of all types. Opal Glass is a milky white glass, widely used in lighting fixtures and tableware. It has a property of diffusing light, which makes Opal Glassware attractive. Sand/ Quartz, Lime, Dolomite, Trona, Orthoclase, Borax, Albite are used to produce opal glass for manufacturing opal glassware. The product under consideration is used for general serving including serving of tea, coffee, soup, and snacks.
14. Opal Glassware is classified under Custom Sub Heading No. 7013 under the Custom Tariff Act, 1975. The classification is, however indicative only and is in no way binding on the scope of the present investigation.
15. The interested parties have argued that Opal Glassware are produced with two technologies - press and spin technology, leading to two different products. Goods produced through press technology only have been imported in India during the POI and therefore the scope of the product under consideration should be restricted to press technology product only. The interested parties have further argued that should the scope of the product under consideration cover both the types, in any case, the comparison for the purpose of dumping (and consequently injury) should be done by considering comparable technology.
16. The domestic industry has disputed the claim of the importers and has argued that goods produced through the two technology lead to the same product and both the domestic industry and the subject countries are producing the goods through both the technologies. The domestic industry has further argued that difference in technology does not lead to different products.
17. The Authority has examined the submissions of the interested parties in regard to product under consideration. The Authority has also conducted on the spot verification at the premises of the domestic industry as well as of the responding exporter from China PR. The Authority, in this regard, proposes to hold as follows:

- a. The product under consideration in the present investigation is Opal Glassware of all types. Under the Customs Tariff Act, the product has been described as glassware (in general) of a kind used for table, kitchen, toilet, office, indoor decoration or similar purposes. The scope of the present investigation is however restricted to opal glassware of a kind used for table, kitchen and office.
- b. Opal glasswares are produced through two technologies, i.e., spin (Centrifugal Process) and press technology (Dye Casting Process). The press technology is old and the spin technology is new. The products manufactured through the former process are lighter in weight and superior in quality and appearance compared to those manufactured from the latter process. The difference in the two technologies however does not render the two products dislike products. The goods produced through two technologies are opal glasswares and have the same usage.
- c. Domestic industry has argued that the import data cannot distinguish the associated technology involved in production of the product. On the spot investigation conducted at the premises of the responding producer/ exporter from China PR showed that the company had produced and exported to India subject goods manufactured through both the technologies during the POI. The domestic industry is also producing goods using both the technologies. Even though the producers in UAE have not fully cooperated with the Designated Authority, the available evidence shows that the UAE producer is also producing the goods using both the technologies.
- d. Since goods are being produced using both the technologies in India and subject countries and since difference in the products produced through two technologies does not render them different articles, the Authority notes that the scope of the product under consideration includes opal glasswares produced through both the technologies. As regards significant difference in the associated costs and prices, the Authority notes that the same is relevant only for the purpose of fair comparison for determining dumping margin and injury margin.
- e. The Authority notes that different kinds of glasswares are classifiable under Custom Sub Heading No. 7013. However, the scope of the product under consideration for the purpose of present investigation is limited to 'opal glasswares' of a kind used for table, kitchen, office or similar purposes. It is clarified that all other products falling under Custom Sub Heading No. 7013 are beyond the scope of the product under consideration in the present case.

**i. Like article**

18. With regard to like article, Rule 2(d) of the AD rules provides as under:

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

19. The applicant has claimed that there is no known difference in applicant's product and subject goods imported from the subject countries and both are comparable in terms of parameters such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. There is no significant difference in the subject goods produced by the applicant and those imported from the subject countries and both are technically and commercially substitutable. The consumers are using the two interchangeably.

20. The Authority notes that the subject goods produced by the domestic industry are like article to the same imported from the subject countries in terms of parameters such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification.

21. The Authority notes that in regard to product under consideration an issue has been raised that opal glassware is manufactured using two types of technological processes namely: Dye Casting Process and Centrifugal Process. The products manufactured by Centrifugal process are lighter and superior in quality and finish compared to those manufactured by Dye Casting Process. The goods produced by both the technologies have different manufacturing cost and market value. However, since both the types of goods are commercially substitutable and have same general usage, they are treated as like products. For the purpose of fair comparison for determination of dumping and injury margin, the Authority has considered them separately. However, lower of the weighted averages of dumping margins and injury margins for the press and spin products has been considered for recommendation of anti dumping duty on the subject goods.

**D. Scope Of Domestic Industry and Standing**

22. 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 which case the term 'domestic industry' may be construed as referring to the rest of the producers only".*

23. The application has been filed by M/s. La Opala RG Ltd. as domestic industry. As per evidence made available, the applicant is a major producer of the subject goods and accounts for major share of the total Indian production of Opal Glassware. Therefore, petitioner satisfies the requirement of standing under the Rules and constitutes domestic industry within the meaning of Rule 2(b).

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

**Normal value**

**Market Economy Treatment for Exporters from China PR**

24. At the stage of initiation, the Authority proceeded with the presumption of China PR as a non-market economy country as per para 8(2) of Annexure1 of the Rules, for purposes of an anti dumping investigation. Upon initiation, the Authority advised the producers/Exporters in the country to respond to the notice of initiation and provide information relevant to determination of their market economy status.
25. The Authority sent copies of the MET questionnaire to all the known exporters for rebutting presumption of non market economy in accordance with criteria laid down in para 8(3) of Annexure-I to the Rules. The Authority also requested Government of China PR to advise producers/exporters in their country to provide information.
26. M/S Wenzhou Huishunda Industrial Trade Co. Ltd., China PR responded to the MET questionnaire. The following submissions have been made by the exporter:-

**Submissions made by the Exporter**

27. The exporter has submitted as under:
- b) Huishunda is a privately owned limited liability company since its establishment in 1996. The shareholders of the Co. include three private person. There are no parent companies or subsidiaries of the Co. which are affiliated with the company.
  - c) Huishunda is a limited liability Co. which is established according to the Company Law of the People's Republic of China, and conducts its operation pursuant to the market rules; there isn't any relationship between Huishunda and the national provincial and local governments including ministries or offices of those governments.
  - d) Huishunda produces and exports the subject merchandise to India independently, the company has no relationship with other producers or exporters of the subject merchandise.
  - e) Huishunda does not own or control other producers/ exporters of the subject merchandise.
  - f) There is operating term in the business license, upon expiration of the business license, if the shareholders to extend the contract period, they shall apply to the

approval authority six months ahead of the expiration and after approval of the pertinent authority, the business license will be renewed.

- g) There is no control on exports of the subject merchandise to India or other countries.
- h) The subject goods do not appear on any government list regarding export provisions or export licensing.
- i) The development of products is conducted independently by Co.'s technical and research department. When the sales department accepts sales order of product, the production department will instruct manufacturing plan to relevant department in the Co.
- j) Huishunda purchases raw material from the free market after negotiation with the suppliers and the prices of the major inputs are determined by the market value.
- k) Huishunda sells products to the distributors both in India and domestic market. Te Co. doesn't have any exclusive relationship or affiliated relationship with raw material suppliers, domestic or export customers.
- l) According to article of association, the general manager is appointed by the executive director. Other senior managers are appointed by general manager. There is no need to notify any governmental authorities about appointment of directors/ managers.

#### **Submissions of the petitioner**

28. It has been contended by the domestic industry that China PR should be treated as Non market economic country in view of the following:-
- (i) The response given to various questions in the MET questionnaire are very cryptic and insufficient.
  - (ii) In response to Question 2 D, list of shareholders it has been stated by the company that out of three share holders of the company, two are private persons. The position of third shareholder has not been disclosed and the reason for the same has also not been provided.
  - (iii) In response to Question No. 2 H, it has been state that the company has no board of directors. How can a company which is incorporated under the Chinese company law, will not have a board of Director when it is the mandatory requirement for incorporation of the company under the law? On this ground, the MET should not be granted.
  - (iv) In response to Question No.5(g), it has been stated that Huishunda after tax profits of current year, it draws 10% of the profits as the Company's statutory reserve funds and 5-10% to its statutory welfare fund. IF the statutory reserve funds is not sufficient to cover the Company's loss from the previous year, the current year profit is used to cover such losses before allocation is made to the statutory reserve and welfare funds. Is this allocation and re-allocation of funds in consonance with the Chinese GAAP as is being claimed by the Company?
  - (v) The answer to Question No.5(h) clearly indicate that they suffered loss on account of export sales but no reason for the same is provided. To add further,

the Company distribute the profits unless the losses of previous fiscal years have been recovered. Hence, MET should not be granted.

- (vi) There is no information with regard to the source from which the machinery and other fixed assets were procured by Huishunda.
- (vii) In view of the incomplete MET response, their MET claims should be rejected.

### **Examination by the Authority**

- 29. The Authority indicated, in the initiation notification that the applicant claimed determination of Normal value on the basis of the provision contained in para 7 of Annexure I to the Rules. Opportunity was also provided to the known exporters of China PR to rebut the presumption of normal value.
- 30. The Authority notes that as per Paragraph 8 of Annexure I of the AD Rules, the presumption of a non-market economy can be rebutted, if the exporter(s) from China PR provide information and sufficient evidence on the basis of the criteria specified in sub paragraph (3) of Paragraph 8, listed below, and establish the facts to the contrary.
  - a) the decisions of concerned firms in China PR regarding prices, costs and inputs, including raw materials, cost of technology and labour, output, sales and investment are made in response to market signals reflecting supply and demand and without significant State interference in this regard, and whether costs of major inputs substantially reflect market values;
  - b) the production costs and financial situation of such firms are subject to significant distortions carried over from the former non-market economy system, in particular in relation to depreciation of assets, other write-offs, barter trade and payment via compensation of debts;
  - c) such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms and
  - d) the exchange rate conversions are carried out at the market rate.
- 31. The Authority notes, barring Wenzhou Huishunda Industrial Trade Co. Ltd. none of the Chinese exporters have submitted questionnaire responses including the market economy questionnaire response nor have sought to rebut the non-market economy presumption. Wenzhou Huishunda Industrial Trade Co. Ltd. has filed exporter's questionnaire response as well as market economy treatment response which has been examined by the Authority.
- 32. The Authority has since verified the information submitted by Wenzhou Huishunda Industrial Trade Co. Ltd. in their MET Questionnaire response during the verification visit to the company in China PR. From the said verification, the Authority notes the following:
  - a) Originally the company was incorporated as Huishunda Household Appliances Company Limited in the year 1994.
  - b) The change of registration in the name of the exporter company i.e. Wenzhou Huishunda Industrial Trade Company Limited took place in the year 1997.

- c) The registered capital of the old company was originally RMB \*\*\* and investment contribution was made by four shareholders. As of August 26, 2002, the accumulated registered capital of the Company was RMB \*\*\* million after change. The Articles of Association for the new company were enacted in the year 2002 and the registered capital of the Company was enhanced to RMB \*\*\* million contributed by three shareholders, who were also holding the shares of the old company i.e. Huishunda Household Appliances Company Limited.
  - d) Current Articles of Association for the exporter company were enacted in the year 2004 with the same registered capital of \*\*\* million RMB and same shareholders with same contribution as in the Articles of Association, 2002. However, the capital contribution certificate in respect of shareholders for the enhanced registered capital could not be made available by the company as the same is not yet issued.
  - e) Fixed Assets Register for the year 1994 (date of establishment of the old company out of which the present company has grown) could not be provided to the verification team. Further, Auditor's Report and other relevant documents in respect of the old company were not available for verification.
  - f) Moreover, the capital verification report in respect of original registered capital of RMB \*\*\* was not made available. Thus, source of the fixed assets of the old company was not verified. Other relevant documents for the period of transition between the old and the new company were also not available for verification.
  - g) During the verification, it was found that the exporter had procured major raw materials except borax from local market of China. No evidence was provided to show that the prices of major inputs substantially reflect market values.
33. In view of the above and in view of the fact that the vital records / documents in support of market economy status in respect of the old company i.e. Huishunda Household Appliances Company Limited out of which the present exporter company has grown, have not been made available to the Authority, it is decided not to grant market economy status to Wenzhou Huishunda Industrial Trade Co. Ltd. In the circumstances, the Authority proceeds with the provision of para 7 of Annexure-1 to the Rules for determination of normal value for all producers/exporters in China PR.

**Methodology adopted for constructing Normal Value in case of China PR.**

34. Para 7 of Annexure I of the AD Rules provides as follows:

*"In case of imports from non-market economy countries, normal value shall be determined on the basis of the price or constructed value in the market economy third country, or the price from such a third country to other countries, including India or where it is not possible, or on any other reasonable basis, including the price actually paid or payable in India for the like product, duly adjusted if necessary, to include a reasonable profit margin. An appropriate market economy third country shall be selected by the designated authority in a reasonable manner, keeping in view the level of development of the country concerned and the product in question, and due account shall be taken of any reliable information made available at the time of selection. Accounts shall be taken within time limits, where appropriate, of the investigation made in any*

*similar matter in respect of any other market economy third country. The parties to the investigation shall be informed without any unreasonable delay the aforesaid selection of the market economy third country and shall be given a reasonable period of time to offer their comments.”*

35. The Authority notes that the petitioner has not submitted the relevant information for constructed value in market economy third country as the same is said to be not available. As per practice, the authority has resorted to constructed normal value in case of non market economy country in the absence of relevant information relating to alternative methods of determination of normal value. Accordingly, The Authority proposes to construct the normal value for all producers in China PR on the following basis: –
- (a) Prices of major input Borax, Boric Acid, Soda Ash have been considered on the basis of the international prices, i.e. World export price to China as per World Trade Atlas.
  - (b) Consumption of raw materials per unit of production has been considered on the basis of best information/data available on record.
  - (c) Conversion costs have been considered on the basis of best information/data available on record.
  - (d) Selling, general & administrative costs (including interest costs) have been taken on the basis of best information/data available on record.
  - (e) Profit has been added @ 5% of ex-factory cost excluding interest.
36. Accordingly, the Normal Value of Opal Glassware for all producers / exporters from China PR is determined at US\$ \*\*\* / kg. (for products manufactured through die- casting process) and at US \$ \*\*\* /Kg. (for products manufactured through Centrifugal process).

### **Normal Value in UAE**

37. The Authority wrote to the known producers/exporters of the product under consideration in UAE advising them to respond to the Authority in the form and manner prescribed. A copy of the communication sent to the known exporters in UAE was also sent to the Govt. of UAE. However, none of the producers of the product in UAE have responded to the Designated Authority. The domestic industry has stated that efforts were made by them to get information/evidence of price of subject goods in the domestic market of UAE. The domestic industry has not been able to get any information/evidence of price of subject goods in the domestic market of UAE. The Authority therefore has determined Normal Value on the basis of information available on record in terms of Rule 6(8) of the AD Rules. Hence, Authority has constructed the normal value for the producers / exporters in UAE on the following basis –
- a) Prices of major inputs Borax, Boric Acid, Soda Ash have been considered on the basis of the international prices i.e. export prices of the world to India as per World Trade Atlas, as the same to UAE are not available for the relevant period.
  - b) Consumption of raw materials per unit of production has been considered on the basis of best information/data available on record.

- c) Conversion costs have been considered on the basis of best information/data available on record.
  - d) Selling, general & administrative costs (including interest costs) have been taken on the basis of best information/data available on record.
  - e) Profit has been added @ 5% of ex-factory cost excluding interest.
38. Accordingly, the Normal Value of Opal Glassware for all producers / exporters from UAE is determined at US\$ \*\*\* / kg. (for products manufactured through die-casting process) and at US \$ \*\*\*/Kg. (for products manufactured through Centrifugal process). However, in the absence of bifurcated export price for the two products in respect of UAE, the Authority has adopted the average normal value of US \$ \*\*\*Kg.

### **Export Price**

### **China PR**

#### **M/s Wenzhou Huishunda Industrial Trade Co. Ltd., China PR**

39. M/s. Huishunda, China in their response to exporter's questionnaire, has provided Transaction-wise information relating to exports to India in the form and manner prescribed. This information has been duly verified. There are 28 invoices covering the export sales by the Company to India during POI and all these transactions have been duly verified from the original records and relevant export documents. The Company has exported a total quantity of \*\*\* Kg. of subject goods to India including those manufactured through spin technology(Centrifugal process) during the POI of value US \$ \*\*\* (invoice value). The Authority notes that the export sales to India are on FOB basis in certain transactions and on CIF basis in certain transactions. Adjustments claimed by the exporter on overseas freight, overseas insurance, lump-sum expenditure including inland freight, port charges and ancillary expenses, credit cost and non refundable VAT have been verified from relevant documents. Thus, the net export price i.e. export price at ex-factory level, for M/s Wenzhou Huishunda Industrial Trade Co. Ltd., China PR is determined at US\$ \*\*\* /kg. (for products manufactured through die-casting process) and at US \$\*\*\* /Kg. (for products manufactured through Centrifugal process).

### **Non-cooperative exporters**

40. In respect of exporters of China PR in the residual category, the Authority has considered the representative lower price of the cooperative exporter to India during POI. Adjustments on various heads as verified in respect of the cooperative exporter have been considered for non-cooperative exporters as well. Thus, the net export price for residual exporters of China PR is determined as US\$ \*\*\* /kg. (for products manufactured through die-casting process) and at US \$\*\*\* /Kg. (for products manufactured through Centrifugal process).

### **Export price in UAE**

41. The Authority notes that neither any exporter from UAE nor any importer of subject goods in India has submitted the requisite Questionnaire response giving details of the export price to India. In the absence of requisite information from

the exporters/importers of subject goods from UAE, the Authority has adopted the export price (CIF) of US \$ \*\*\*/kg for all exporters of UAE based on IBIS data. As the bifurcation of exports into products manufactured through die-casting process and products manufactured through Centrifugal process is not available in IBIS data, the Authority is not in a position to work out the export price separately for both the products. Therefore, the export price at ex-factory level is determined as US\$ \*\*\*/kg. for Opal Glassware in general (both press and spin products) for all exporters of UAE after taking into account adjustments of US\$ \*\*\*/kg on freight, insurance, commission, port expenses, inland freight and bank charges, as claimed by the petitioner.

### **Dumping margin**

42. The Rules relating to determination of dumping margin provides as follows:-

"While arriving at margin of dumping, the Designated Authority shall make a fair comparison between the export price and the normal value. The comparison shall be made at the same level of trade, normally at ex-works level, and in respect of sales made at as nearly possible the same time. Due allowance shall be made in each case, on its merits, for differences which affect price comparability, including differences in conditions and terms of sales, taxation, levels of trade, quantities, physical characteristics, and any other differences which are demonstrated to affect price comparability"

43. The Authority notes that there is sufficient evidence that the subject goods have been exported by the subject countries during POI below their normal value. In view of the fact that 'press' and 'spin' are two different technologies rendering two distinct products with substantial difference in cost, quality and price, the Authority has considered it appropriate to separately compare normal value and export price at ex-factory level as determined above in respect of subject goods manufactured through die-casting (Press technology) process and centrifugal (spin technology) process. Accordingly, the dumping margin for the producers/exporters of the subject goods in the subject countries is determined as under:-

Country	Producer/ Exporter	Product type	Normal Value USD/kg	Export price USD/kg	Dumping Margin	Dumping margin weighted average (US\$/kg)	Dumping margin weighted average % (Range)
China PR	M/s Wenzhou Huishunda Industrial Trade Co. Ltd., (producer) M/s Wenzhou Huishunda Industrial Trade Co. Ltd., (exporter)	'Spin' products	***	***	***	***	50-55
		'Press' products	***	***	***		
	All other	'Spin'	***	***	***		

	combinations	products				***	125-130
		'Press' products	***	***	***		
UAE	All Producers/ Exporters	Both Spin and Press products	***	***	***	***	40-45

**F. DETERMINATION OF INJURY TO THE DOMESTIC INDUSTRY AND EXAMINATION OF CAUSAL LINK**

44. Annexure II (iii) of the Anti Dumping Rules requires that in case imports of a product from more than one country are being simultaneously subject to anti dumping investigations, the Designated Authority will cumulatively assess the effect of such dumped 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 less than three percent, the imports cumulatively accounts for more than seven percent of the imports of like article, and;
  - (ii) Cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic articles.
45. Following are relevant in this regard:
- (a) The margin of dumping from each of the subject countries is more than the limit prescribed above;
  - (b) Cumulative assessment of the effects of imports is appropriate since the exports from the subject countries directly compete with the like goods offered by the domestic industry in the Indian market, as would be seen from the following information:
    - a. The product manufactured by the producers from the subject countries inter-se and in comparison to the product manufactured by domestic industry has comparable properties. In other words, goods supplied by various subject countries and by the domestic industry are inter-se like articles.
    - b. Imported and domestic materials are being used interchangeably and there is direct competition between the domestic product and imported product.
    - c. The landed values of such imported material from subject countries are below the selling price of domestic industry. This clearly establishes competition amongst Foreign Producers inter-se as also with Indian Producers.

- d. The exporters from the subject countries and domestic industry have sold the same product in the same periods to same customer. The petitioner has been selling the product directly as also through their agent and exporters from subject countries are exporting directly as also through their agent. The sales channels are comparable.
  - e. Volume of imports from each of the subject countries is significant.
  - f. Domestic producer and exporters from the subject countries sell the like product to the same category of customers and both are competing in the same market. Both are being used by the consumers interchangeably.
46. In view of the above, the Authority notes that it is appropriate to cumulatively assess the effects of imports of the subject goods from China PR and UAE on the domestically produced like article, in the light of conditions of competition between the imported products and the like domestic product.
47. 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.
48. 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.”*
49. The Authority notes that the margin of dumping and quantum of imports from subject countries are more than the limits prescribed above. Cumulative assessment of the effects of imports is appropriate since the export prices from the subject countries were directly competing with the prices offered by the domestic industry in the Indian market.
50. For the examination of the impact of imports on the domestic industry in India, the Authority has considered such further 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.

**a. Volume effect of imports:**

51. Table below shows the position in regard to imports of subject goods in to India:

Particulars	Unit	2006-07	2007-08	2008-09	2009-10
Import from China PR	MT	174	723	850	1,975
Trend	Indexed	100	416	489	1135
Import from U A E	MT	871	1,157	464	584
Trend	Indexed	100	133	53	67
Other Countries	MT	523	753	146	152
Market Share in Imports-CHINA	%	11.11	27.45	58.24	72.86
Market Share in Imports-UAE	%	55.53	43.94	31.77	21.54
Market Share in Imports-Other Countries	%	33.36	28.61	9.99	5.60

52. From the above table, it is observed that :

- a. Volume of dumped imports from China PR has increased significantly in absolute terms over the injury period;
- b. Volume of dumped imports from UAE had declined during POI compared to the base year.
- c. The imports from China PR and UAE have a major share in total imports. While the share of subject countries in imports increased over the injury period that of other countries declined.

**Demand and market share**

Particulars	Unit	2006-07	2007-08	2008-09	2009-10
Sales (domestic) of Domestic industry	MT	2,367	2,456	2,573	3,390
Trend	Indexed	100	104	109	143
Imports in India from subject countries	MT	1,045	1,879	1,314	2,559
Trend	Indexed	100	180	126	245
Demand in India	MT	3,935	5,088	4,033	6,100
Trend	Indexed	100	129	102	155
Market Share in demand					
Subject Countries	%	26.56	36.93	32.58	41.95
China PR	%	4.43	14.20	21.08	32.38

U A E	%	22.13	22.73	11.50	9.57
Other Countries	%	13.30	14.80	3.62	2.49
Share of Domestic Industry	%	60.14	48.27	63.80	55.56

53. From the above, it is seen that demand for the subject goods in India has shown an increasing trend except decline during 2008-09. However, it is seen that the market share of subject countries in demand of the product in India has increased significantly and that of the domestic industry has declined In POI compared to the base year.

**b. Price effect of Imports**

54. 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. For the purpose of this analysis, the cost of production, net sales realization (NSR) and the non-injurious price (NIP) of the domestic industry have been compared with the landed cost of imports from the subject countries. The net sales realization was arrived after deducting all rebates and taxes. Landed value of imports has been calculated by adding 1% handling charge and applicable basic customs duty to the CIF value of subject imports. The landed value of imports was compared with net sales realization of the domestic industry and it was found that the dumped imports are undercutting the prices of the domestic industry.

**Price undercutting**

55. 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. Authority has determined net sales realization considering selling price, excluding taxes & duties, rebates, discounts & commissions. Landed price of imports has been determined considering weighted average CIF import price, with 1% landing charges and applicable basic customs duty and cess. The comparison was done between net sales realization and landed price of imports. The Authority notes that the landed prices of the subject goods are significantly below the selling price of the domestic industry which suggests significant price undercutting being caused by the dumped imports.

		<b>CHINA PR</b>	<b>UAE</b>
<b>Particulars</b>	<b>Unit</b>	<b>2009-10</b>	<b>2009-10</b>
Landed Value	Rs./ Kg	***	***

NSR of the Domestic Industry	Rs/ Kg	***	***
Price Undercutting	Rs./ Kg	***	***
Price Undercutting	% Range	45-55	30-40

It is seen that the landed price of imports of the subject goods are significantly below the net selling prices of the domestic industry, resulting in significant price undercutting.

**Price suppression**

56. In order to determine whether the dumped imports are suppressing the domestic prices, the Authority determined whether the effect of such imports is to prevent price increases, which otherwise would have occurred, to a significant degree. For the purpose, the net selling price of the DI has been compared with the cost of sales trends in cost of production and selling price of the domestic industry.

SN	Particulars	Unit	2006-07	2007-08	2008-09	2009-10
1	Cost of Sales	Rs/Kg	***	***	***	***
	Trend	Indexed	100	100	119	137
2	Selling price	Rs/Kg	***	***	***	***
	Trend	Indexed	100	102	112	116

57. From the above, it is apparent that there is an increase in both the cost of sales and the selling price of the domestic industry during POI compared to the base year. However, the increase in the selling price is proportionately lower compared to the increase in the cost of sales, thereby reflecting price suppression.

**c. Economic parameters relating to the domestic industry**

58. Annexure II to the AD 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 AD 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. The various injury parameters relating to the domestic industry are examined as follows:

**i. Production, domestic sales & capacity utilization:**

Particulars	Unit	2006-07	2007-08	2008-09	2009-10
Demand	MT	3,935	5,088	4,033	6,100
Trend	Indexed	100	129	102	155
Capacity installed	MT	3,500	4,019	7,000	7,000
Trend	Indexed	100	115	200	200
Production	MT	3,052	2,885	4,965	3,825
Trend	Indexed	100	95	163	125
Capacity Utilisation	%	87.20	71.78	70.92	54.64
Domestic sales	MT	2367	2456	2573	3390
Trend	Indexed	100	104	109	143

From the above, it is noted that production has been fluctuating over the injury period. The production increased in POI compared to base year. Even when overall production has shown an increase by 25% points from base year and domestic sales have increased by 43% points in the same period, the demand of the product in the market has increased by 55% points as compared to base year, and the capacity utilisation of the domestic industry has declined. Sales of the domestic industry have increased over the injury period. However, increase in sales is proportionately below the increase in demand.

**ii. Profitability**

The profitability of the domestic industry in respect of domestic sales has been examined. It is noted that profitability of the domestic industry for the subject goods has significantly deteriorated over the injury period. It is also noted that the volume of dumped imports increased significantly in POI and the profitability of the domestic industry also declined significantly in POI to such an extent that the domestic industry was suffering significant financial losses, as could be seen from the following table.

Particulars	Units	2006-07	2007-08	2008-09	2009-10
Cost of Sales	Rs/Kg	***	***	***	***
Trend	Indexed	100	100	119	137
Selling price	Rs/Kg	***	***	***	***
Trend	Indexed	100	102	112	116
Profit/loss	Rs/Kg	***	***	***	***
Trend	Indexed	100	113	73	-10

Profit/loss	Rs (lacs)	***	***	***	***
Trend	Indexed	100	117	80	-15

**iii Employment and wages:**

Particulars	Unit	2006-07	2007-08	2008-09	2009-10
Employment	No	***	***	***	***
Trend	Indexed	100	109	119	117
Wages	Rs lacs	***	***	***	***
Trend	Indexed	100	122	140	189

It is seen that there has been increase in number of employees and also in wages during period of investigation as compared to base year

**iv. Productivity**

Particulars	Unit	2006-07	2007-08	2008-09	2009-10
Productivity per Employee	Kg/No	5,036	4,351	6,895	5,387
Productivity per day	Kg/Day	8,478	8,014	13,791	10,624

It is seen from the above that there is an increase in productivity in POI compared to the base year.

**v. Return on investments and cash flow**

The return on investment has been determined considering profit before interest and capital employed for the product. Impact on cash flow has been determined considering profit before depreciation but after interest cost. It is noted that return on capital employed has significantly deteriorated in POI, as apparent from the following table

Particulars	Unit	2006-07	2007-08	2008-09	2009-10
Profit/loss	Rs./Lacs	***	***	***	***
Trend	Indexed	100	117	80	(15)
Profit per unit	Rs/Kg	***	***	***	***

Trend	Indexed	100	113	73	-10
Depreciation	Rs./Lacs	***	***	***	***
Trend	Indexed	100	220	247	231
Cash Profit	Rs./Lacs	***	***	***	***
Trend	Indexed	100	141	118	41
Cash profit per unit	Rs/Kg	***	***	***	***
Trend	Indexed	100	136	108	29
Return on capital employed - NFA Basis	%	***	***	***	***
Trend	Indexed	100	62	55	20

The cash profit has shown a substantial and significant decline in POI. It is noted that the depreciation has increased. The domestic industry has added capacity during the period, resulting in depreciation. However, depreciation after 2007—08 increased, whereas the profits have steeply declined and the domestic industry has suffered loss during POI. The Authority notes that the decline in profits is not due to increase in depreciation expenses.

**vi. Inventories:**

Particulars	Unit	2006-07	2007-08	2008-09	2009-10
Average Stock	MT	443	528	1,234	1,844
Trend	Indexed	100	119	279	417
Average Inventory as no. of days sales	MT	71	63	205	155
Trend	Indexed	100	88	288	218
Domestic sales	MT	2,367	2,456	2,573	3,390
Trend	Indexed	100	104	109	143

Due to dumped imports from subject countries, Domestic Industry has not been able to increase its sales commensurate with increase in production its goods. This has resulted in increase in inventories, as apparent from the table above, which has shown a very significant increase in POI. The domestic industry has been forced to take production shutdown in view of piling up of inventories, despite the fact that the production process involves running of furnace at a high temperature and one production shutdown has significant impact on the domestic industry.

**vii. Growth:**

Growth of the domestic industry in terms of capacity utilization, inventories and market share was negative, while the same in respect of production and sales was positive. However, the domestic industry has been forced to suspend production during POI. Growth in terms of price parameters, viz. profits, cash profits, profits and return on investment has been negative.

**viii. Ability to raise capital investments**

It is noted that the domestic industry has enhanced capacities in 2007-08 by adding a new plant at Sitargunj, for which fresh investments have been made. It is, however, noted that the enhancement of capacity has to be seen along with significant increase in demand of the product in the country.

**ix. Magnitude of dumping and dumping margin**

The dumping margin determined herein above in respect of cooperative exporter as well as non cooperative exporters from the subject countries is considered significant and above the de minimis level.

**Conclusion on injury parameters**

59. It is thus seen that:

- a) Imports from subject countries have increased in absolute terms. The increase in imports is significant.
- b) Imports have increased in relation to imports in India, production and consumption in India.
- c) Imports are undercutting the prices of domestic industry to a significant extent.
- d) Selling prices of the domestic industry increased. However, cost of production of the domestic industry also increased. The increase in the selling price was lower than the increase in the cost of production. The dumped imports have thus caused price suppression.
- e) Domestic sales increased over the injury period. However, the increase in sales was lower than increase in demand and the domestic industry faced significant pile up of inventories.
- f) The domestic industry added capacities, which appear to be in line with increase in present and potential demand of the product in the country. Utilisation of the capacities by the domestic industry has however declined during the injury period.
- g) Market share of the dumped imports has increased and that of domestic industry has declined.
- h) Profits, return on investment and cash profits of the domestic industry have deteriorated significantly.
- i) Inventories with the domestic industry have increased significantly. The domestic industry has undertaken exports and production shutdown to liquidate the inventories, at significant financial losses.
- j) Volume parameters of the domestic industry declined in spite of existence of significant demand.
- k) Dumping margins as a parameter of injury are significant.
- l) Employment, wages and productivity does not show adverse impact of dumping. However, deterioration in other vital parameters outweighs the improvement in these parameters.

60. The Authority, therefore, finds that the domestic industry has suffered material injury.

**G. Causal link**

**Other Known Injury factors and Causal Link**

61. Having examined the existence of material injury in terms of volume and price effects of dumped imports on the domestic industry, its price undercutting and price suppression effects and other vital parameters listed under the Anti Dumping Rules, the Authority has also examined whether any other factor, other than the dumped imports could have contributed to injury to the domestic industry. Accordingly, the following parameters have been examined:-

**(a) Volume and prices of imports from other sources**

Imports of the subject goods from third countries have declined. Further, the import prices from third countries are at prices significantly higher than the import prices from subject countries.

**(b) Contraction in demand**

Demand for the subject goods has shown an increase during POI compared to the base year. The injury to the domestic industry cannot be attributed to the lack of demand in the country.

**(c) Change in pattern of consumption**

The data on consumption does not show any significant change in the pattern of consumption of the product.

**(d) Developments in technology**

There is no evidence of significant changes in technology by any interested party, which could have caused injury to the domestic industry.

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

The subject goods are freely importable. The applicant is the major producer of the subject goods and account for significant domestic production and sales. No other evidence of conditions of competition or trade restrictive practices has been brought to the attention of the Authority by any interested party.

**(f) Export performance of the domestic industry**

The Authority notes that the export sales of the domestic industry have incurred losses. However, the losses in the domestic sales have been segregated for the purpose of injury analysis and injury is established even without considering export related losses.

**(g) Productivity of the Domestic Industry**

Though there has been increase in productivity till 2008-09, the same declined in 2009-10 with the significant decline in production. However, productivity on overall basis during the injury period is almost at the same level. Even when the productivity in 2006-07 and 2007-08 were comparable to POI, the profitability of the domestic industry declined steeply.

62. The above non-attribution analysis shows that no other known factors appear to have caused injury to the domestic industry.

**Factors showing causal link:**

63. While the above parameters establish that injury to the domestic industry has not been caused by the other known factors, it can be noted that the following parameters establish that the injury to the domestic industry has been caused by the dumped imports.

- (i) There is significant difference between the prices offered by the domestic industry and those offered by the exporters of the subject countries . Resultantly, domestic industry lost sales opportunity and market share. Thus, decline in market share and loss of sales opportunity is a direct consequence of dumped imports from subject country;
- (ii) Dumped imports are significantly undercutting the prices of the domestic industry. Resultantly, the domestic industry has not been able to increase the selling price proportionate to the increase in the cost of sales.
- (iii) Deterioration in profits, return on capital employed and cash profits are directly a result of dumped imports;
- (iv) Imports increased significantly in absolute terms. Resultantly, the inventories with the domestic industry increased. As a result of increase in inventories, the domestic industry was forced to suspend production for a considerable period. Suspension of production by the domestic industry despite existence of significant demand in the Country was due to presence of dumped imports in the market.
- (v) Market share of the imports from subject countries increased significantly. As a direct consequence, the market share of the domestic industry declined.
- (vi) Growth of the domestic industry became negative in respect of a number of parameters

- 64 . The Authority has determined non-injurious price for the domestic industry on the basis of principles laid down in the Rules. This non-injurious price of the domestic industry has been compared with the landed values of the subject imports from subject countries to calculate injury margin. The injury margins have, thus, been worked out as follows:

Table showing Injury Margin

Country	Producer/ Exporter	Product type	Non Injurious Price USD/kg	Landed value USD/kg	Injury Margin USD/kg	Injury Margin weighted average (US\$/kg)
China PR	M/s Wenzhou Huishunda Industrial Trade Co.	'Spin' products	***	***	***	***

	Ltd., (producer) M/s Wenzhou Huishunda Industrial Trade Co. Ltd., (exporter)	'Press' products	***	***	***	
	All other combinations	'Spin' products	***	***	***	***
		'Press' products	***	***	***	
UAE	All Producers/ Exporters	Both 'Spin' and 'Press' products	***	***	***	***

## H. Conclusions

65. The Authority has, after considering the foregoing, come to the conclusion that:
- The subject goods have been exported to India from the subject countries below its normal value;
  - The domestic industry has suffered material injury;
  - The material injury has been caused by the dumped imports of the subject goods from subject countries.
  - The injury has been caused cumulatively by the imports from the subject countries.

## I. Indian Industry's Interest & Other Issues

66. The Authority recognizes that imposition of anti-dumping duties might affect the price level of product in India. However, fair competition in the Indian market will not be reduced by the anti-dumping measures. On the contrary, imposition of anti-dumping measures would remove the unfair advantage gained by dumping practices, would arrest the decline of the domestic industry and help maintain availability of wider choice to the consumers of subject goods. Consumers could still maintain two or even more sources of supply.
67. 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 countries in any way, and, therefore, would not affect the availability of the products to the consumers.

## J. Recommendation

68. The Authority notes that the investigation was initiated and it was notified to all interested parties. Adequate opportunity was given to the exporters, importers and other interested parties to provide information on the aspects of dumping, injury and causal link. Having initiated and conducted an investigation into

dumping, injury and the causal link thereof in terms of the AD Rules and having finally 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 consequential injury to Domestic Industry.

69. 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 weighted averages of margins of dumping and margins of injury, separately determined for spin and press products. The Authority further notes that there is a significant differentiation of the product under consideration in terms of its weight and price. Therefore, antidumping duty in terms of reference price or fixed duty would not be appropriate in this case. The Authority recommends imposition of anti-dumping measure as an ad valorem duty, worked out as a percentage of the CIF value of imports of the subject goods from the subject countries. Accordingly, definitive antidumping duty equal to the amount arrived at by applying the percentage indicated in Col 7 of the duty table given below is recommended to be imposed on all imports of subject goods originating in or exported from subject countries from the date of notification to be issued in this regard by the Central Government.

1	2	3	4	5	6	7
SN	Tariff Head	Description of goods	Country	Producer	Exporter	% of CIF value
1	7013	Opal Glass-ware	China PR	M/s Wenzhou Huishunda Industrial Trade Co. Ltd.,	M/s Wenzhou Huishunda Industrial Trade Co. Ltd.,	41.61
2	7013	-do-		Any other combination of producer/exporter		110.17
3	7013	-do-	UAE	Any producer	Any exporter	36.73

For the purpose of this notification, "landed value" means the assessable value as determined under the Customs Act, 1962 (52 of 1962) and includes all duties of customs except duties levied under sections 3, 3A, 8B, 9 and 9A of the said Act.

70. **Further Procedure:**

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

(Vijaylaxmi Joshi)

Designated Authority