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**F.No.14/22/2013-DGAD
Government of India
Ministry of Commerce & Industry
Department of Commerce
(Directorate General of Anti Dumping & Allied Duties)
Jeevan Tara Building, 5, Parliament Street
New Delhi 110001**

NOTIFICATION

Final Findings

Date 19 December, 2014

Subject: Anti-Dumping Investigation concerning import of “Sheet Glass” originating in or exported from China PR

14/22/2013-DGAD:- Having regard to the Customs Tariff Act 1975 as amended from time to time (hereinafter also referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 thereof, as amended from time to time (hereinafter also referred to as the Rules);

1. Whereas, Bharat Glass Tube Limited filed an application on behalf of the domestic industry, alleging dumping of Sheet Glass (hereinafter also referred to as the "subject goods"), originating in or exported from China PR (hereinafter also referred to as the "subject country") and requested for initiation of anti-dumping investigations for levy of anti-dumping duty on the imports of the subject goods, originating in or exported from the subject country.
2. And whereas, the Authority on the basis of sufficient evidence, submitted by the applicant issued a public notice dated 20th December 2013, published in the Gazette of India, Extraordinary, initiating anti-dumping investigations concerning imports of the subject goods, originating in or exported from the subject country, in accordance with sub-Rule 5(5) of the Rules, to determine the existence, degree and effect of the alleged dumping and to recommend the amount of anti-

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

A. PROCEDURE

3. The procedure described below has been followed by the Authority after issuance of the public notice notifying the initiation of the present investigation:
 - i. The Authority notified the Embassy/Representatives of the subject country 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 supra.
 - ii. The Authority on the basis of sufficient evidence submitted by the applicant on behalf of the domestic industry, issued a public notice dated 20th December, 2013 published in the Gazette of India, Extraordinary, initiating Anti-Dumping investigations concerning imports of the subject goods, originating in or exported from the subject country, 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.
 - iii. The copy of the Initiation Notification was sent to the known producers/exporters of the subject goods in the subject country, Embassy of the subject country in India, importers/users of the subject goods in India, the domestic producers and other known interested parties requesting them to file response and make their views known in writing.
 - iv. The Authority had provided the copies of the non-confidential version of the application to the known producers/exporters of the subject goods in the subject country and to the Embassy/Representatives of the subject country in India in accordance with Rule 6(3) supra.
 - v. A copy of the letter and questionnaire sent to the exporters were also sent to the Embassy/Representatives of the subject country in India, along with the names and addresses of the exporters with the request to advise the exporters/producers from their country to respond to the questionnaire within the prescribed time.
 - vi. The initiation notification was sent to the following producers/exporters of the subject goods in the subject country:

- a) RST International Glass Co., Ltd
 - b) Rider Glass Company Limited
 - c) Shouguang Jingyao Glass Product Co., Ltd
- vii. The following producers/exporters from the subject country submitted the questionnaire response:
- a) Shandong Guangyao Super-Thin Glass Co., Ltd., China PR
 - b) Shouguang Yaobang Imp. & Exp. Industry Co., Ltd., China PR
 - c) Dongguan CSG Architectural Glass Co., Ltd., China PR
 - d) Guangxi Fungrich Imp & Exporter C., Ltd., China PR
- viii. Importers Questionnaire was sent to the following known importers and/or consumers of subject goods in India calling for necessary information in accordance with Rule 6(4) of the AD Rules:
- a) Tech Arch Solutions
 - b) Polar Industrial Corporation
 - c) Shiv Shakti Enterprises
 - d) Krishan Glass Work Pvt Ltd
 - e) Ganga Jamuna Enterprises
 - f) J.K. Sales Corporation
 - g) Shiv Corporation
 - h) Ajanta Limited
 - i) Rikon Clock Manufacturing Company
 - j) Shriji Engineering
- ix. Importers questionnaire response was filed by only M/S Ajanta Pvt Ltd and R.S. Bawa & Sons. However, written submissions were also filed by Simplex Glass Works, who did not file any questionnaire response.
- x. The Authority made available non-confidential version of the documents and evidences presented by various interested parties in the form of a public file kept open for inspection by the interested parties.
- xi. The Non-injurious Price is calculated based on the cost of production and cost to make and sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) and Annexure III to the Anti-dumping Rules so as to ascertain whether Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to the Domestic Industry.

- xii. Information provided by 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 was directed to provide sufficient non-confidential version of the information filed on confidential basis.
- xiii. On site verification of the information provided by the petitioner were conducted at the premises of the petitioner. Only such verified information with necessary rectification wherever applicable is relied upon for the purpose of present findings.
- xiv. Investigation was carried out for the period starting from 1st July, 2012 to 30th June, 2013 (POI). The examination of trends, in the context of injury analysis, covered the periods April 2010-March 2011, April 2011-March 2012, April 2012-March 2013 and the POI.
- xv. In accordance with Rule 16 of Rules Supra, the essential facts/basis considered for these findings were disclosed to known interested parties vide disclosure statement dated 9th December 2014 and comments received thereon, considered relevant by the Authority, have been addressed in this notification.
- xvi. ***In this Final Finding represents information furnished by an interested party on confidential basis, and so considered by the Authority under the Rules.
- xvii. The exchange rate adopted for the POI is 1 US\$ = Rs. 55.15

B. PRODUCT UNDER CONSIDERATION AND DOMESTIC LIKE ARTICLE

4. The product under consideration in the present investigation is Sheet Glass, originating in or exported from China PR. It is produced by using horizontally lehr. The glass is taken directly from the free surface of the melt and the edges of the sheet are stabilized by driving the glass upward using rotating bodies. The molten glass passes from the glass furnace to a vertical drawing machine to a height of about 1000 MM from where the formed glass is converted in to glass sheet by horizontal flow. Once the sheet is formed, it is bent over a polished metal roll and carried away horizontally into a lehr. Float glass, figured and wired glass are not covered within the scope of Product under Consideration.

5. Product under Consideration is classified under the heading "Glass and Glassware" in Chapter 70 and further under 7004.20. The classification at 8-digit level is 70042011 and 70042019. However, the subject goods are also been imported under different customs classifications such as 70031290, 70031990, 70033090, 70042099, 70049019, 70049099, 70052110, 70053090, 70091090 etc. The classification, is only indicative and in no way binding on the scope of the present investigation.

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

6. Shandong Guangyao Super-Thin Glass Co Ltd. and China PR, Shouguang Yaobang Imp. & Exp. Industry Co Ltd., China PR, exporters and Ajanta Ltd., importers of the subject goods from the subject country have submitted that sheet and float glass should be considered as "like product" as per Article 2.6 of the WTO ADA due to the same physical characteristics, end use and substitutability.
7. Sheet glass of thickness 2mm & below and widths higher than 920mmx1220mm is to be excluded from the scope of the product under consideration due to the applicant domestic producer's inability to produce the same.
8. Domestic industry has not provided description or specification of the product with regard to size, quality, category and use of the subject goods. Applicant domestic industry has also not defined the thickness as well as size of the sheet glass.
9. Bharat Glass is not producing all thicknesses of sheet glass. Further, it does not have the capacity to produce colour sheet and the product manufactured by Bharat Glass is not upto the mark.

Submissions by the domestic industry

10. Domestic industry has submitted that sheet and float glass should not be considered as "like product" as sheet glass and float glass are two distinct products having different technical characteristics, prices and costs. Further, it has submitted that in the past also Authority had initiated and recommended anti-dumping duty on the float glass but sheet glass is never included within the scope of PUC for the simple reason that technical characteristics, prices, marketability and costs of both these products are different. In order to substantiate their claim in this context, domestic industry has cited relevant portion from the Final Findings No. 15/01/2007-DGAD dated 2nd December, 2008 against the imports of Float Glass from China PR and Indonesia.
11. Domestic industry has submitted that the claim of the interested parties regarding the inability of the domestic industry to produce sheet glass of thickness 2mm & below and sizes above 920mmx1220mm is without any merit. In order to

substantiate their claim, domestic industry has enclosed some sample sales invoices of sheet glass of 2mm and below. Further, domestic industry has submitted that it has the capability to produce the subject goods up to 12mm thickness. It has further submitted that the actual production of the subject goods of various thicknesses is a factor of market demand.

12. Domestic industry has submitted that neither the grades nor the sizes are relevant in this case as the domestic industry either produces all types/grades/thicknesses of the product concerned or has the capability to produce all types/grades/thicknesses of the product concerned.

EXAMINATION BY THE AUTHORITY

13. The product under consideration in the present investigation is "Sheet Glass", originating in or exported from China PR.

14. The glass is taken directly from the free surface of the melt and the edges of the sheet are stabilized by driving the glass upward using rotating bodies. The molten glass passes from the glass furnace to a vertical drawing machine to a height of about 1000 MM from where the formed glass is converted into glass sheet by horizontal flow. Once the sheet is formed, it is bent over a polished metal roll and carried away horizontally into a lehr.

15. 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;

16. The various submissions made by the interested parties with regard to the scope of PUC and domestic like article and considered relevant by the Authority are examined and addressed as follows:

- i. The petitioner has claimed that there is no known difference in the subject goods produced by the domestic industry and that imported from the subject country. The subject goods produced by the domestic industry and the subject goods imported from the subject country are comparable in terms of characteristics such as technical characteristics, manufacturing process and technology, functions and uses, product specifications, distribution and market and tariff classification of the goods. Examination of the product and import data submitted by the applicant and the respondent exporters indicates that

there is no difference between subject goods produced by the Domestic Industry and imported from the subject country. In view of the similarity in manufacturing process and substitutability, the Authority holds that the two are treated as alike and one product for the purpose of defining the 'product under consideration' in this case.

- ii. As regards the submission of the interested parties that sheet glass and float glass should be considered as like products, the Authority holds that sheet glass and float glass are two distinct products having different technical characteristics, price and cost.
- iii. With regard to the submission of the interested parties, that Sheet glass of thickness 2mm & below and sizes above 920mmx1220mm be excluded from the scope of the product under consideration due to the applicant domestic producer's inability to produce the same, the Authority notes that the domestic industry had produced thickness 2mm and below. The issue of sizes does not lead to exclusion based on the principle of like article.

C. SCOPE OF DOMESTIC INDUSTRY & STANDING

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

17. Interested parties have submitted that the applicant domestic producer does not constitute "Domestic Industry" as per Rule 2(b) of the AD Rules and Article 4.1 of the WTO ADA as sheet and float glass are considered as "like product" as per Article 2.6 of the WTO ADA due to the same physical characteristics, end use and substitutability. As a result, the share of the Applicant Domestic Producer in total production of the PUC in 2010-11 is a mere 3.6%. This share further decreased to 2.8% in 2011-12 that cannot be construed a "major proportion" of the subject good in any circumstances, and therefore, applicant domestic producer does not satisfy the definition of "domestic industry".

Submissions by the domestic industry

18. The domestic industry has submitted that the contention of the interested parties that sheet and float glass should be considered as "like product" is without any merit for the reasons mentioned above. Therefore, the arguments based on this premise are without any merit. The domestic industry has submitted that they accounts for 100% of the total Indian production of the subject goods.

EXAMINATION BY THE AUTHORITY

19. 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”

20. The application in the present investigation has been filed by Bharat Glass Tube Limited on behalf of the domestic industry. As claimed by the applicant, it is the sole producer of the subject goods in the country.
21. As regards the claim of the interested parties that the “Domestic Industry” should be determined considering sheet glass and float sheet as like products, the Authority notes that sheet glass and float glass are two distinct products and cannot be considered as “like articles” for the reasons mentioned earlier. That being the case, the contention of the interested parties to determine the status of the domestic industry taking into account the production of float glass also, is rejected.
22. On a detailed examination of the facts, the Authority determines that Bharat Glass Tube Limited accounts for 100% of the total domestic production of the subject goods during the POI. It is further noted that petitioner has not imported the product under consideration nor are they related to any importer or exporter of the product under consideration. The petitioners, therefore, constitute ‘Domestic Industry’ in terms of Rule 2(b) of the AD Rules. It is also clear that the application, having been made by or on behalf of the domestic industry, satisfies the requirements of ‘standing’ under Rule 5 of the AD Rules.

D. Confidentiality

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

23. Various submissions made by the producers/exporters/importers/other interested parties with regard to confidentiality and considered relevant by the Authority are as follows:
- i. The petition suffers from excessive confidentiality. The petition provides no evidence with respect to adjustments claimed to the export price.
 - ii. The domestic industry has not provided much information about the subject goods viz. quality, category, uses, etc.
 - iii. The application filed by the applicant domestic producer contains numerous violations of the Application Proforma like application does not contain Proforma IVB at all etc.

Submissions made by the domestic industry

24. With regard to the issues of confidentiality, the domestic industry has submitted that the contention of the interested parties regarding violation of the Application Proforma by the domestic industry is without any merit. Domestic industry has filed the application in accordance with the AD Rules and the prescribed formats. Further, information relating to Proforma IV B has also been provided in the non-confidential version of the application at the relevant places. It is further submitted that the Domestic Industry has claimed confidentiality on their business sensitive information with adequate reasons in accordance with the legal provisions and the guidelines being followed by the Authority.
25. The domestic Industry has, on the other hand, submitted that the participating exporters have claimed excessive confidentiality. It is submitted that the exporter has not provided a meaningful summary of the various Appendices as prescribed in the exporter's questionnaire viz. Appendix-2, Appendix-2A, Appendix-3, Appendix-4, Appendix-7 etc. In all of the above appendices, the information even in the indexed form has not been provided. Moreover, even the details regarding the production, exports to India, domestic sales and capacity have also been claimed as confidential.

EXAMINATION BY THE AUTHORITY

26. The various submissions made by the interested parties with regard to confidentiality and considered relevant by the Authority have been examined. 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 authorize its disclosure in a generalized or summary form, it may disregard such information.

27. 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 was 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 public file.
28. With regard to the submission of the opposite interested parties that the petitioner should make available information about the subject goods viz. quality, category, uses etc., the Authority notes that the domestic industry has already provided the information on the uses etc of the subject goods in the application filed with the Authority. A copy of the non-confidential version of the application has been sent by the Authority to the known interested parties. Moreover, it is also made available in the public file.

E. Miscellaneous Submissions

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

29. The miscellaneous submissions made by producers/exporters/importers/other interested parties and considered relevant by the Authority are as follows:
- i. The Applicant domestic producer has neither disclosed any evidence in its construction of Normal Value nor followed the correct procedure in determining the same. Applicant Domestic Producer is required to resort to the price at which the subject good is exported from the third country to other countries, including India as the same is available in UN Comtrade.
 - ii. The application does not contain any evidence with regard to adjustments to Export Price.
 - iii. The production of the Applicant Domestic Producer in its Balance Sheet for 2012-13 states that the production of sheet glass is 5125475 (Sq. Mt. 2mm basis) which amounts to 25002 MT. However, the production claimed by the Applicant Domestic Producer in the petition is 24788 MT which reflects inaccuracies in the production data.

- iv. In direct contrast to its claims of loss in the petition, the applicant domestic producer in its balance sheet for the 2012-13 has stated that it has increased its net profit by 100.84% in 2012-13 as compared to 2011-12.
- v. During the POI, the exchange rate for USD that has been adopted by domestic industry is 55 for computation of normal value and export price. However, the prevailing rate of USD, as per the RBI, is currently 62.2.
- vi. Duty, if any, must be imposed on reference price basis.
- vii. Applicant has changed its accounting policy, which may have impacted the amount of depreciation charged during the year. Interested parties have requested to examine this issue.
- viii. Interested parties have requested DGAD to direct applicant to provide an explanation as to how it has sorted import data from the raw import data and also requested to direct them to provide the transaction-wise raw import data as well as sorted imported data to the respondent in MS-Excel format.
- ix. No communication regarding initiation was sent to the exporter i.e., Guangxi Fungrich Imp & Exporter C., Ltd., China PR. Accordingly, request Authority to accept the belated response filed with the Authority.

Submissions made by the domestic industry

30. The miscellaneous submissions made by the domestic industry and considered relevant by the Authority are as follows:

- i. China has been considered as a non-market economy country by various authorities world-over. Accordingly, domestic industry had determined the normal value for the same as per procedure described in Para 7 of Annexure I to the Anti-dumping Rules. Further, as far as the suggestion of the interested parties that the applicant domestic producer is required to resort to the prices of the subject goods from third country to other countries particularly when the same is available on UN Comtrade is concerned, it is submitted that UN Comtrade data relating to the exports or imports is available on a consolidated level and no transaction-wise data is available. Moreover, description of the product is also not available. Domestic industry has invited the attention of the Authority to the fact that the HS code of the product under consideration is 7004 20 11 and 7004 20 19. However, subject goods

are also being imported in various other HS Codes. Furthermore, after the perusal of the raw import data, it is clear that many products that fall outside the purview of the product under consideration (i.e. NON-PUC) are also being imported in India within the HS code of PUC. Accordingly, there is a gross misclassification of the products in the import data and, therefore, classification of the export data at transaction level is must for proper comparison. In view of the above, it has submitted that considering price of consolidated level data from UN Comtrade will not result in proper comparison.

- ii. Choice of the method for determining the normal value rests with the Designated Authority and not with the exporter. Domestic industry has invited the attention of the Authority to the decision of the Hon'ble Supreme Court in the case of Designated Authority v. Haldor Topsoe, 2000 (120) ELT 11 (SC) wherein it has been clearly made that that the choice of the method for determining the normal value rests with the Designated Authority and not with the exporter. In the absence of information with regard to the domestic sales and the third country export by the producer it is not possible for the Authority to determine the Normal value as per the Anti-dumping Rules and, hence, the response has to be rejected outright. Further, domestic industry has submitted that non-filing of the MET claim cannot lead to curtailing the rights of the Designated Authority regarding the methodology to determine the normal value.
- iii. Domestic industry has not imported the subject goods from the subject country during the investigation period. In view thereof, it is not possible for the domestic industry to provide evidence for the same. However, attention of the Authority is invited to the fact that the domestic industry has claimed the adjustments to the export price as per its market intelligence.
- iv. Allegation raised by the interested parties regarding difference in the production quantities reported in the Balance Sheet and to the Anti-dumping Authorities by the domestic industry is without any merit. Domestic industry has invited the attention of the Authority to the fact that the interested parties have compared the production quantity for the year 2012-13 with the production quantity for POI (i.e. July 2012-June 2013). Accordingly, reached to a wrong conclusion of the difference in the production quantities.
- v. The contention raised by the interested parties that there is an increase in the net profit of 2012-13 by 100.84% is without any merit. Domestic industry has not made any claim in the balance sheet regarding 100.84% increase in the profitability in the year 2012-13. It seems that the interested parties have ignored the fact that the profit of 2011-2012

includes substantial loss on account of the figured glass operations (since discontinued) to reach to a wrong conclusion of 100.84% increase in the profitability in the year 2012-13. Domestic Industry has submitted that the profitability of the subject goods reduced to 40% in the year 2012-13 as compared to the year 2011-12 and the detailed costing is already submitted to the Authority.

- vi. Adopting the exchange rate of the POI for calculating Normal Value, Non-injurious Price etc. is the standard practice being followed by the anti-dumping Authorities. Same practice is being followed consistently by the Authority in all cases.
- vii. Indian economy is witnessing significant volatility in the rupee value vis-à-vis US dollars. Moreover, 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.
- viii. Domestic industry has claimed that due to closure of the Nasik plant all the assets of Nasik plant have been transferred to Ankleshwar plant. Accordingly, depreciation methodology has been changed from WDV to SLM, which is being consistently followed for the existing assets of the Ankleshwar plant. Change in the method of depreciation has resulted into decrease in the amount of depreciation charged during the POI.
- ix. Domestic industry has submitted that import data for the subject goods has been sorted based on the description given in each transaction in the import data. The details of which has been provided as Annexure 2 to the application. Further, domestic industry has submitted that import data has been provided in the application as per the consistent practice of the Authority followed in other cases.
- x. Shouguang Yaobang Imp. & Exp. Industry Co., Ltd. China PR (Exporter) has not filed the questionnaire response relating to the linked producer. In the absence of which, it is not entitled to an individual dumping margin. The response is to be rejected outright on this ground alone. Further, it has submitted that the exporter has not even disclosed even the name of the linked manufacturer/producer from which it has purchased the subject goods in the POI for exporting the same to India. In view of the above, domestic industry has requested the Authority to reject the response filed by the exporter considering the consistent practice being followed by the Authority in plethora of cases.
- xi. Shouguang Yaobang Imp. & Exp. Industry Co., Ltd. China PR (Exporter) has furnished completely contradictory and misleading

information. In Q. No. 2 of Section B, the exporter has stated that they are not engaged in the domestic sales. Whereas, in response to Section J which is in the context of information related to third country exports, exporter has replied that "Not applicable as Shouguang Yaobang submits that its normal value shall be based on the sales in domestic market". It may also be noted that the exporter is under an obligation to submit the information as per the guidelines given in the prescribed format of the response i.e., exporter's questionnaire. Accordingly, domestic industry has requested the Authority to ask the exporter to file the third country information as the exporter has themselves accepted the fact that they are not engaged in domestic sales.

- xii. The response of Shandong Guangyao Super-Thin Glass Co., Ltd. China PR (Exporter) is liable to be rejected on the ground that the exporter has admittedly not produced the subject goods during the POI and very insignificant volumes have been exported to India during the POI. The exporter has claimed during the public hearing that they have exported the subject goods to India from the inventory of 200 MT of the preceding year. Accordingly, exports made by the exporter account for only 0.73% of the total exports to India even after assuming that all the inventory i.e., 200 MT of the preceding year has been exported to India only. Further, domestic industry has submitted that the exporter has exported only one consignment of the product concerned to India during the entire POI. Furthermore, domestic industry has also submitted that the exporter has accepted during the public hearing that they have produced only 3600 MT in the preceding year. However, no information has been provided by the exporter about their annual capacity. It has also submitted that the production level or a capacity of a mere 3600 MT is completely unviable. Under such circumstances, the exporter has merely acted as a trader as far as their operations during the POI are concerned. In the absence of the requisite data relating to production and costs, they are *ab initio* not entitled to a separate treatment for this reason also.
- xiii. Both the exporters mentioned above have stated in their response that they are not providing the Appendix-1, Appendix-3B, Appendix-3C, Appendix-8B and Appendix-8C as they are claiming Constructed Normal Value as their Normal Value. Exporters may be asked to clarify under which law they are absolved from the legal obligation to file the above mentioned Appendices by merely claiming Constructed Normal Value as their Normal Value. Further, it has submitted that the exporter has to provide Appendix-1 even if the company did not sell the product in the domestic market. Further, in such cases, details for exports to third countries other than India are also to be provided. Domestic industry has also invited the attention of the Authority to the guidelines

prescribed in the General Introduction section of the Exporters Questionnaire Format wherein it is clearly stated that the questionnaire is not a "fill in type" and provides for submission of answers to all questions. In case the information is found incomplete or not adhering to the prescribed format, the same can be rejected by the Designated Authority. Therefore, exporter has to submit the information strictly as per the questionnaire prescribed by the Authority.

- xiv. The response of Dongguan CSG Architectural Glass Co., Ltd. (Exporter) is liable to be rejected on the ground that the exporter has accepted during the public hearing that they have not exported the product under consideration i.e., Sheet Glass. They further admitted that the product exported by them i.e., Float Glass is also not a like article to the Product under Consideration. Furthermore, domestic industry has also submitted that the fact that product exported by them is neither the product concerned nor like article is amply clear from the written submissions filed by the exporter. Domestic industry has submitted that exporter has not even enclosed Appendix A i.e., Certificate of true, complete & correct information. This is inevitable information that is required to count on the information furnished by the exporter.
- xv. Domestic industry has submitted that the written submissions filed by R.S. Bawa & Sons and Simplex Glass Works should not be accepted as they have not filed the importers questionnaire response within the prescribed period. Further, domestic industry has also submitted that the above-mentioned interested parties have accepted during the public hearing that they have not filed the response within the prescribed time frame.

EXAMINATION BY THE AUTHORITY

31. Various issues raised by the interested parties and the Domestic Industry considered relevant by the Authority are examined herein below. Responses related to Normal Value and Export price have been appropriately considered in Annexure 2.

- i. As regards the contention of the some interested parties regarding the exchange rate used for the calculation of normal value etc., the Authority has considered the exchange rate for the period of investigation and determined in accordance with the consistent practice followed by the Authority.
- ii. The interested parties have claimed that duty, if any, should be based on a reference price. In this context, the Authority holds that considering the nature of business, price and cost volatility of the

subject goods, fixed anti-dumping duty is appropriate and recommended.

- iii. The interested parties have requested the Authority to examine the impact of the change in the method of depreciation. In this context, the Authority notes that this issue has been examined during domestic industry's verification visit and has been appropriately taken care of by the Authority in injury analysis.
- iv. As regards the claim of the domestic industry to reject the written submissions filed by R.S. Bawa & Sons and Simplex Glass Works, the Authority notes that M/s Simplex Glass works has not filed any questionnaire response within the prescribed time frame and, therefore, it cannot be considered as an interested parties as per the provisions of law and the consistent practice of the Authority. Further they have also not given sufficient grounds for the not filing the same.
- v. In the context of the alleged contradictions in the balance sheet and the application, the Authority notes that the Domestic Industry clarifications that profit for the year 2011-2012 includes substantial loss on account of the figured glass operations (since discontinued). The authority has verified the injury details during POI through an on spot domestic verification and on the basis of records has evaluated all injury parameters as per rules and its consistent practice.

METHODOLOGY AND DETERMINATION OF DUMPING AND DUMPING MARGINGS

F. Normal Value

32. 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);

33. The Authority sent questionnaires to the known exporters from the subject countries, advising them to provide information in the form and manner prescribed. The questionnaire responses have been filed by the following exporters/producers:

- i. Shandong Guangyao Super-Thin Glass Co., Ltd., China PR
- ii. Shouguang Yaobang Imp. & Exp. Industry Co., Ltd., China PR
- iii. Dongguan CSG Architectural Glass Co., Ltd., China PR
- iv. Guangxi Fungrich Imp & Exporter C., Ltd filed response after the last date.

34. With regard to the response filed by M/s Shouguang Yaobang Imp. & Exp. Industry Co., Ltd., China PR, the Authority notes that the said exporter has not filed the response of the linked manufacturer/manufacturers from whom it has purchased the subject goods and exported to India during the POI. In view of the fact that the said exporter has failed to provide the information relating to the linked producer, the Authority is of the considered view that the exporter is not entitled to an individual normal value and accordingly an individual dumping margin in terms of the provisions of law and consistent practice of the Authority. Accordingly, the authority has adopted the consistent methodology for determination of Normal Value for Non Market Economy.

35. With regard to the response filed by Dongguan CSG Architectural Glass Co., Ltd., China PR, the Authority notes that the said exporter has submitted during the public hearing followed by written submissions also that they have not exported the product under consideration i.e., Sheet Glass. The authority notes that the end user who has imported the said goods is also a user of the float glass. The exporter has mentioned that the ITC HS has been erroneously mentioned by them on the export documents and that the goods are not Sheet Glass. Accordingly, the authority has accepted the submission of the exporter that the exported goods are not sheet glass and hold that the said exporter has not exported the product concerned and accordingly the exporter is not considered as an interested party as per the provisions of law.

36. With regard to the request made by Guangxi Fungrich Imp & Exporter C., Ltd., China PR to accept their response, the Authority notes that the same was received much after the time limit prescribed by the Authority. The said exporter has

contended that they did not receive any communication from the Designated Authority and came to know about the initiation only through their Indian buyers. Hence, the delay in filing their response. In this connection, the Authority notes that the ground for filing delayed response by the said exporter cannot be accepted, as the notice of initiation was sent to all the known exporters as required in Rule 6. At the same time, a copy of the initiation notification along with a non-confidential version of the application was also sent to the Embassy of China PR as required under the rules. It is not envisaged in law or in practice that each and every interested party ought to be notified about the proceedings individually. The fact that it is communicated to the known exporters as well as to the Embassy of China PR is sufficient to meet the requirements of law. In view thereof, time barred response filed by the said exporter cannot be accepted. Further, the Authority notes that the said exporter has also not filed the response of the linked manufacturer from whom it has purchased the subject goods and exported to India during the POI. In view of the aforesaid, exporter is not entitled to any individual normal value, export price and consequentially a dumping margin in terms of the provisions of law.

37. It is submitted by the Domestic Industry that China has been treated as a non-market economy country by various authorities world over and in recent cases China has been treated as non-market economy country in India also. Therefore, the normal value for China is required to be determined as per the procedure described in Para 7 of the Annexure I to the Anti-dumping Rules. For the ready reference the provisions of Para 7 are quoted below:

“7. 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, 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. Account shall also be taken within time limits, where appropriate, of the investigation if any made in similar matter in respect of any other market economy third country. The parties to the investigation shall be informed without unreasonable delay the aforesaid selection of the market economy third country and shall be given a reasonable period of time to offer their comments.”

38. Normal value for China is required to be determined based on domestic selling prices in a market economy third country or the constructed value in a market economy third country or the export prices from such a third country to any other country including India. However, if the normal value cannot be determined on the basis of the alternatives mentioned above, the Designated Authority may determine the normal value on any other reasonable basis including the price actually paid or payable in India for the like product duly adjusted to include reasonable profit margin.
39. In the absence of any price and cost details for the subject goods in any market economy third country and the fact noted that none of the exporters/producers has claimed market economy treatment in terms of Paragraph 8(3) of Annexure 1 to the Anti-dumping Rules, the Designated Authority is left with no alternative but to determine normal value estimated on the basis of price actually paid or payable in India for the like product, duly adjusted, to include a reasonable profit margin.
40. Based on the information made available by the domestic industry, producers and the exporters and other information available with the Authority, the normal value for the subject goods has been constructed as USD *** per MT for all producers/exporters from China PR.

Export price for Producers/Exporters from China

A. M/s Shandong Guangyao Super-Thin Glass Co., Ltd

41. M/s Shandong Guangyao Super-Thin Glass Co., Ltd., (hereinafter referred to as “producer cum exporter”) is a limited liability company established in accordance with the company law of China. It is noted that said exporter is both a producer and an exporter of the product under consideration. However, it has not manufactured the product under consideration during the period of investigation and has accordingly not claimed an individual normal value. Further, it is noted that the exporter has exported only one consignment of *** MT during the POI which is not significant and representative to determine separate Dumping or Injury Margin. The Authority therefore has not determined the export price for this exporter.

B. All exporters from China

42. The Authority has determined the export price for all producers and exporters including M/s Shandong Guangyao Super-Thin Glass Co., Ltd from China on the

basis of the best facts available in terms of Rule 6(8) of the Anti-dumping Rules. The net export price so determined works out to US\$ *** per MT.

Dumping Margin

43. Considering the normal value and export price for subject goods, the dumping margin for the subject goods for cooperating and other exporters has been determined as follows:

All producers and exporters from China

Particulars	China (\$/MT)
Normal Value	***
Ex-factory price	***
Dumping margin	***
Dumping margin (%)	***
Dumping margin (Range)	65-75

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

G. INJURY DETERMINATION

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

44. The following are the injury related submissions made by the producers/exporters/importers/other interested parties:

- i. The Applicant Domestic Producer has been enjoying an extremely high rate of capacity utilization and was able to utilize its capacity at the rate of 99.4% in 2010-11, which only marginally declined to 97% in 2011-12 and 93-94% in 2012-13 and the POI.
- ii. Applicant Domestic Producer was able to sell 98-99% of the goods produced every year. In that case, inventories with the Applicant Domestic Producer should logically be very low, as opposed to the inflated inventory figures provided in the petition. Costs as well as the

dumping and injury margin must be computed for each thickness of sheet glass.

- iii. The Applicant Domestic Producer is alleging that imports of the subject good from China PR is substantially high and is hampering the functioning of the Applicant Domestic Producer. However, it is to be noted that the Applicant Domestic Producer is only able to cater to 45-55% of the total demand on an average. Even while the capacity utilization of the Applicant Domestic Producer was 99%, it was at the most able to cater to about 64% of the total demand.
- iv. The landed values of the subject good have undergone a consistent increase over the injury period as well as the POI. It underwent an increase from Rs13719 in 2010-11 to Rs 14075 in 2011-12 and Rs. 15259 per MT in 2012-13. In the POI, the landed value jumped further to Rs. 15465 per MT.

Submissions made by the domestic industry

45. The following are the injury related submissions made by the domestic industry:

- i. Costing data has been provided on a per ton basis to ensure proper comparison and in view of the fact that the differences in the costs and prices of various thicknesses of the product under consideration are very small.
- ii. Domestic industry is in the installation phase of the additional production capacity of the subject goods that will be operational by the end of the year. It will increase the production capacity of the domestic industry by around 25,000 metric tons per annum. However, due to huge quantity of the dumped imports at injurious prices from the subject country, it seems unlikely that the domestic industry will be able to maintain the present levels of capacity utilization in the future also if the low value dumped imports from the subject country continue to be imported.
- iii. The demand of the product in the country shows a robust growth during the POI. However, share of domestic industry declined due to dumped imports.

- iv. Imports from subject country have increased significantly in absolute term as also in relation to production and consumption in India. As a result, share of the domestic industry has declined steeply.
- v. Average import price from the subject country is significantly below net sales realization of the domestic industry, thus, resulting in significant price undercutting.
- vi. The increase in selling price was lower than the increase in cost of production leading to price suppression.
- vii. Domestic industry has suffered material injury in connection with dumping of subject goods from subject country. Further, the domestic industry is threatened with continued injury, should the present condition continue.
- viii. The profitability of the domestic industry sharply and materially declined as an impact of dumping from subject country and remained at negligible levels during the POI.
- ix. Market share of the domestic industry has severely declined whereas that of imports from subject country has substantially increased.
- x. Productivity of the domestic industry has remained almost at the same level during the injury period.
- xi. Return on investments has declined sharply. The current level of ROI is much less than the desirable and legitimate levels which should have been achieved by the domestic industry in the absence of dumped imports, considering the huge investments it has made.
- xii. Inventory during POI has significantly increased.
- xiii. Overall growth parameters of the domestic industry in terms of sales, market share, profit per MT, PBIT, ROI etc has become negative.
- xiv. The dumping margin from subject country is not only more than de-minimis levels but is very significant.

- xv. The domestic industry has suffered material injury due to dumped imports of the subject goods from the subject country.
- xvi. Presence of import at very low prices preventing domestic industry to increase their price to the extent of increase in input cost resulting into suppression of the selling prices of the domestic industry.
- xvii. Reduction in profits directly resulted in deterioration in return on capital employed and cash profits. The domestic industry has not been able to cover the cost of capital. Thus, deterioration in profits, return on capital employed and also cash flow and cash profit is directly due to dumped imports.

Examination by the Authority

46. 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.

47. 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.”

48. The injury analysis made by the Authority hereunder *ipso facto* addresses the various submissions made by the interested parties. However, the specific submissions made by the interested parties are addressed by the Authority as below:

- i. As regards the submission that the increasing imports from China are a natural result of the gap between high demand in India and insufficient supply capacity of Indian sheet glass industry, the Authority notes that lack of adequate capacity with the domestic industry does not justify dumped imports. Moreover, anti-dumping measures are not intended to prevent imports but rather to create a level playing field for the domestic industry vis-à-vis the dumped imports.
- ii. With regard to other contentions of the interested parties, the Authority has appropriately dealt with the same in the following paragraphs.

H. Volume Effect of the Dumped imports on the Domestic Industry

a) Demand and market share

49. Demand or apparent consumption of the product in India has been taken as the sum of domestic sales of the Indian Producers and imports from all sources. The demand so assessed is given in the table below:

i. Demand

Particulars	Unit	2010-11	2011-12	2012-13	POI (July, 2012 to June, 2013)
Demand	MT	38,732	47,420	53,185	52,284
Trend	Indexed	100	122	137	135
Imports from Subject Country	MT	11,994	20,779	27,078	27,026
Imports from Other Country	MT	272	887	1296	859
Sales of Domestic Industry	MT	26,466	25,754	24,811	24,398
Trend	Indexed	100	97	94	92

50. It is noted that the sales of the domestic industry has declined in the POI as compared to the base year as well as all the preceding years despite increase in the demand from the base year to the POI.

ii. **Market Share in Demand**

51. Considering imports from various sources and sales of the Indian Producer, market share of subject imports in demand in India was examined. The position is as follows:

Particulars	Unit	2010-11	2011-12	2012-13	POI
Demand	MT	38,732	47,420	53,185	52,284
Share in Demand					
Imports from Subject Country	%	30.97	43.82	50.91	51.69
Imports from Other Country	%	0.70	1.87	2.44	1.64
Sales of Domestic Industry	%	68.33	54.31	46.65	46.67

52. It is seen from the above table that the demand for the product increased significantly in the country throughout the injury period and also during the POI. While the share of imports from subject country which was 30.97% in the base year has increased to 51.69% in the POI. The share of domestic industry has declined from 68.33% in the base year to 46.67% in the POI. Thus, the imports from subject country showed significant increase while the share of domestic industry declined during the same period.

b) **Import volume and market share**

53. The Authority has examined the volume of imports of the subject goods on the import data received from the DGCI&S. The import volumes from subject country are found to be above the de-minimis levels as can be seen from the table below:-

Particulars		Unit	2010-11	2011-12	2012-13	POI
Volume	Subject Country	MT	11,994	20,779	27,078	27,026
	Other country	MT	272	887	1296	859
	Total imports	MT	12,266	21,666	28,374	27,885
Market Share in Imports	Subject Country	%	97.8%	95.91%	95.43%	96.92%
	Other country	%	2.22%	4.09%	4.57%	3.08%

54. It is seen from the above table that imports from subject country increased from 11,994 MT in the base year to 27,026 MT during the POI. It is also noted that imports from subject country account for 96.92% of the total imports of product under consideration in India during the POI.

c) **Share of imports in relation to production**

55. Authority observes that the imports from subject country have increased in relation to the production of the domestic industry, as is evident from the following table:

Particulars	Unit	2010-11	2011-12	2012-13	POI
Imports from Subject Country	MT	11,994	20,779	27,078	27,026
Production of domestic industry	MT	26,486	25,784	25,142	24,788
Dumped Imports in relation to production of domestic industry.	%	45.3%	80.6%	107.7%	109.0%

56. It is noted from the above table that the share of the dumped imports from the subject country in the total domestic production is increased from 45.3% in the base year to 109% during the POI.

d) **Capacity & capacity utilization**

57. Details regarding the capacity and capacity utilization of the domestic industry are provided in the below table:

Particulars	Unit	2010-11	2011-12	2012-13	POI
Capacity MT	MT	26,645	26,645	26,645	26,645
Capacity utilization	%	99.40	96.77	94.36	93.03

58. It is noted from the above table that capacity utilization of the domestic industry declined during the POI as compared to the base year as well as the preceding years. Domestic industry claimed that such decline in capacity utilization is the direct impact of increase in dumped imports in the same period. Decline in capacity utilization, when there is an increase in the demand, shows adverse impacts on the domestic industry due to absorption of such increase in demand by dumped imports.

e) **Production**

59. Production data of the domestic industry is given in the following table:-

Particulars	Unit	2010-11	2011-12	2012-13	POI
Production	MT	26,486	25,784	25,142	24,788
Trend	Indexed	100	97	95	94
Demand	MT	38,732	47,420	53,185	52,284
Trend	Indexed	100	122	137	135

60. It is noted from the above table that production of the domestic industry has declined during POI as compared to the base year as well as the preceding years whereas demand in the same period has increased significantly. The domestic industry has submitted that even when demand increased sharply, the dumped imports prevented the domestic industry to increase its production.

f) **Sales volume**

61. Sales volume of the domestic industry is given in the following table:

Particulars	Unit	2010-11	2011-12	2012-13	POI
Domestic sales	MT	26,466	25,754	24,811	24,398
Trend	Indexed	100	97	94	92
Demand	MT	38,732	47,420	53,185	52,284
Trend	Indexed	100	122	137	135
Market Share of domestic industry in Demand	%	68.33	54.31	46.65	46.67

62. It is observed from the above table that sales of the domestic industry have declined during POI as compared with the base year as well as the immediately preceding years despite the demand for the product has increased significantly during the same period. The domestic industry has claimed that the reason for the reduction for the market share of the domestic industry is the significantly low value dumped imports from the subject country. Resultantly, the domestic industry lost significant market share.

g) **Price Effect of the Dumped imports on the Domestic Industry**

63. 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 product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. For the purpose of this analysis, the average cost of production (COP), average 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 country.

i. **Price Undercutting**

64. The net sales realization was arrived after deducting post factory expenses i.e., outward freight and taxes. Landed value of imports has been calculated by adding 1% handling charge and applicable basic customs duty including applicable cess 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 as can be seen from the table below:

Particulars	Unit	2010-11	2011-12	2012-13	POI
Landed price of imports	Rs/MT	***	***	***	***
Net selling price	Rs/MT	***	***	***	***
Price undercutting	Rs/MT	***	***	***	***
Price undercutting	%	***	***	***	***
Price undercutting	Range	10-20	10-20	20-30	10-20

65. It is observed from the above table that imports are significantly undercutting prices of domestic industry throughout the injury period as well as POI.

ii. **Price Underselling**

66. Authority notes that the price underselling is an important indicator of assessment of injury. Non injurious price has been worked out and compared with the landed value of the subject goods to arrive at the extent of price underselling. The non-injurious price has been determined considering the cost of production of the domestic industry for the product under consideration during the POI, in accordance with Annexure III of the Anti-dumping Rules. The analysis shows that the landed value of subject imports was below the non-injurious price as can be seen from the table below.

Particulars	China (Rs/MT)	China (\$/MT)
NIP	***	***
Landed price of imports	***	***
Price underselling	***	***
Price underselling (%)	***	***
Price underselling (Range)	20-30	20-30

iii. **Price suppression/depression**

67. The Authority examined whether the effect of the dumped imports was to depress the prices of the like article in India, or prevent price increase that would have otherwise occurred.

Particulars	Unit	2010-11	2011-12	2012-13	POI
Cost of production	Rs./MT	***	***	***	***
Indexed	Trend	100	109	122	124
Selling Price	Rs./MT	***	***	***	***
Indexed	Trend	100	102	111	114
Landed Value	Rs./MT	***	***	***	***
Indexed	Trend	100	101	103	113

68. It is seen from the table above that the cost of production has increased from 100 to 124 from base year to POI. The selling price increased only from 100 to 114 during the same period, thereby the prices were suppressed on account of dumped imports, as the domestic industry was not able to increase its prices in proportionate to increase in costs. Even though the landed prices have increased over the years, they are lower than the sales realization of the domestic industry during the POI as well as injury period. The imports were thus suppressing the prices of the domestic industry.

I. **Economic parameters of the domestic industry**

i. **Profit/Loss**

69. The profitability of the domestic industry is given in the following table;

Particulars	Unit	2010-11	2011-12	2012-13	POI
Profits	Rs./MT	***	***	***	***
Indexed	Trend	100	49	21	30
Cash Profit	Rs./MT	***	***	***	***
Indexed	Trend	100	61	40	47
ROCE	%	***	***	***	***
Indexed	Trend	100	55	25	30

70. It is seen from the above table that profitability of the domestic industry declined significantly during the injury period including the POI. Cash profits as

well as return on investment have declined in the POI compared to base year as well as the previous years.

ii. **Cash Flow**

71. Authority has examined the trends in cash profits in order to examine the impact of dumping on cash flow situation of the domestic industry. Information regarding cash profit of the domestic industry is given in the following table.

Particulars	Unit	2010-11	2011-12	2012-13	POI
Cash profits	Rs./MT	***	***	***	***
Indexed	Trend	100	61	40	47

72. It is seen that the cash profits of the domestic industry has declined significantly over the injury period.

iii. **Inventories**

73. Inventories with the domestic industry moved as follows:

Particulars	Units	2010-11	2011-12	2012-13	POI
Closing stock	MT	***	***	***	***
Indexed	Trend	100	185	1123	1454

74. It is noted that inventories with the domestic industry increased significantly in the POI as compared to the base year as well as the previous years.

iv. **Productivity**

75. Authority notes that productivity of the domestic industry has almost remain at the same level during period of injury.

Particulars	Unit	2010-11	2011-12	2012-13	POI
Productivity per employee	MT	***	***	***	***
Indexed	Tr	100	97	94	92

v. **Employment and Wages**

76. It is seen from the table below that the employment has remained almost at the same level throughout the injury period. Overall wages per employee, however, has increased in the POI as compared to the base year which is on account of the annual increment in the salary of the employees.

Particulars	Unit	2010-11	2011-12	2012-13	POI
Employment	Nos.	268	270	270	272
Indexed	Trend	100	101	101	101
Wages/Employee	Rs.	***	***	***	***
Indexed	Trend	100	113	139	139

vi. **Magnitude of Dumping**

77. Magnitude of dumping as 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 country are above de minimis and significant.

vii. **Growth**

78. The Authority notes from the table below that growth of the domestic industry in respect of production, sales, Market share & profitability was negative. The domestic industry has submitted that they were prohibited from taking benefits of increasing demand on account of increases in the dumped imports with significant price undercutting.

Particulars	2010-11	2011-12	2012-13	POI
Sales (%)	-	-3	-6	-8
Production (%)	-	-3	-5	-6
Market Share (% Demand)	-	-21	-32	-32
Profitability per unit (%)	-	-51	-79	-70

viii. **Ability to raise Capital Investment**

79. The Authority notes that the domestic industry's ability to put in additional investments in the product depends upon the market situation. It is evident that the market share of the domestic industry has marked decline during the injury period. Hence, dumping of the product would certainly have adverse impact on the ability of the domestic industry to raise capital investment.

J Post Disclosure Statement Submissions by the Interested Parties

Post Disclosure Statement submissions by the other Interested Parties

80. Various Requests have been made to provide thickness wise production and sales data of domestic industry so as to ascertain whether or not the Applicant is producing sheet glass of thickness less than 2 mm and size more than 920 mm X 1220 mm. However, these requests have neither been noted in the disclosure statement nor has such data been provided.

81. The Authority has only noted the submission that the Applicant is not manufacturing sheet glass of thickness less than 2 mm and size more than 920 mm X 1220 mm. This does not capture all the submissions made by the Respondent during the course of the investigation on the scope of PUC. Throughout the investigation, the Respondent have contended that sheet glass of thickness less than 2 mm, in particular 1.8 mm and size more than 920 mm X 1220 mm (which the Respondent requires) is not technically and commercially substitutable with sheet glass of thickness 2 mm and above and size 920 mm X 1220 mm and lesser (which the Applicant is willing to supply).

82. The quality of sheet glass manufactured by the Applicant is not up to the mark and cannot be relied upon. This submission has not even been recorded by the Authority in its disclosure statement.

83. The Applicant has claimed to have submitted some sample sales invoices to establish that it has produced/has the capability to produce sheet glass of thickness less than 2 mm. If the Applicant has submitted sample sales invoices to the Authority, the Respondent is at a loss to understand why the same haven't been made available to all the interested parties in the subject investigation.

84. The Respondent is unable to appreciate how the Authority has refused to accept the export price of an exporter who has only exported one consignment during the POI, but has readily accepted production in small quantities and mere sample

sales invoices as proof of the Applicant's ability to manufacture sheet glass of thickness less than 2 mm.

85. The Applicant's contention that capability of the domestic producer to produce sheet glass of thickness less than 2 mm and size more than 920 mm X 1220 mm is a relevant factor is completely incorrect and unacceptable. The Authority has never placed reliance on the capability of the domestic producer to produce a certain variant of the PUC; it has always relied only on the actual production of the specific grade/type/variant when deciding the question whether certain grades/type/variant are to be excluded from the scope of PUC.
86. The Applicant does not satisfy the definition of "domestic industry" as per Rule 2(b) of the AD Rules and Article 4.1 of the ADA because the Applicant's output does not constitute a "major proportion" of the total production, due to the fact that sheet glass and float glass are "like products" as per Article 2.6 of WTO ADA. The Authority has stated in para 21 that sheet and float glass are not "like products", without any supporting reason whatsoever. The Respondent submits that the statements made by DGAD are required to be supported by some sort of evidence, and bald statements dismissing the arguments of the Respondent in one line does not suffice as a properly reasoned order.
87. Applicant has claimed excess confidentiality over various information like technical specifications, production process, purchase/sales policy, costing of subject goods etc.
88. The petition filed by the Applicant did not meet the evidentiary standards of Article 5.2 of the WTO Anti-Dumping Agreement due to the following reasons:
- i. The Applicant has neither disclosed any evidence in its construction of normal value nor followed the correct procedure in determining the same.
 - ii. The Authority is required to disclose the prices based on which normal value is constructed for the exporter from China PR.
 - iii. The adjustments made by the Applicant with respect to the export price are abnormally high. Furthermore, no evidence has been adduced in support of the adjustments made to the export price.
 - iv. The Applicant has not complied with the requirements in the Application Proforma. For instance, there is no mention of the technical specifications of sheet glass, or any other information with regard to the size, quality, category and uses of the product under consideration.

89. Respondent has requested transaction wise import data in MS-EXCEL format and an explanation as to how the raw DGCIS data with regard to import of the subject goods was sorted by the Applicant. However, same has not been provided to the respondent. The Respondent considers this a serious breach of the principles of natural justice.
90. Normal value may be constructed individually for the exporters concerned. In para 34, the Authority has merely noted that since M/s Shouguang Yaobang Imp. & Exp. Industry Co., Ltd., China PR has not filed the response of the linked manufacturer; it is not entitled to an individual normal value and correspondingly, an individual dumping margin. In this regard, the Respondent had clearly submitted earlier that during the POI, Shouguang Yaobang has exported the subject goods manufactured by various unrelated producers in China. All these producers are unrelated to Shouguang Yaobang and not controlled by Shouguang Yaobang. Therefore, it is very difficult for Shouguang Yaobang to compel these producers to cooperate with the authority.
91. The Authority has rejected the export price of Shandong due to the fact that Shandong exported only one consignment of the subject goods during the period of investigation. The rejection of export price due to this reason is not provided for anywhere in the Act or AD Rules, thereby rendering such rejection of export price unjustified and illegal.
92. The Authority has considered the profits of the Applicant to be declining from 100 indexed points in 2010-11 to 49 indexed points in 2011-12, 21 indexed points in 2012-13 and 30 indexed points in the POI. However, it is to be noted that this is in direct contrast to the statements made by the Applicant in its Balance Sheet for the 2012-13 which corresponds with the POI in the present investigation. The Applicant has stated the following:

“For the year ended March 31, 2013 the company has made net profit of Rs. 123.90 lacs, an increase of 100.84% as compared to previous year.”

93. The Respondent is engaged in manufacturing and exporting Wall Clocks with the famous brand Ajanta Quartz and other products with the brand name “ORPAT”, and is one of the world’s largest clock manufacturers. The Respondent contributes substantially to India’s exports as well as employment to thousands of people. The imposition of anti-dumping duty on a grade of sheet glass which is not even being manufactured by the Applicant would impact India’s exports as well as the

employment of a substantial number of people. This is clearly a “public interest” consideration which must be kept in mind by the Authority while considering the recommendation of imposition of anti-dumping duty.

94. The size of the customized glass imported by us is not manufacture by the domestic industry for which huge investment has been made in CNC glass cutting machine.

Post Disclosure Statement submissions by the Domestic Industry

95. Claim of the interested parties that the domestic industry does not have the capability to produce sheet glass of thickness less than 2mm, in particular 1.8mm and of various higher widths is without any basis and factually incorrect. Domestic industry has reiterated that it has the capability to produce the subject goods upto 12mm. Domestic industry has shown the product under consideration of various thickness and sizes to the Authority during their verification visit. Sample copies of the sales invoice of sheet glass of various thicknesses and sizes have already been provided to the Authority to substantiate our claim in this regard. These sample sales invoices includes invoices of thickness less than as well as thickness more than 2mm.

96. Indian economy is witnessing significant volatility in the rupee value vis-à-vis US dollars. Moreover, 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. In such circumstances, we once again humbly request the Authority to levy fixed duty rather than reference price based duty as proposed by the interested parties.

97. Domestic industry has requested the Authority not to consider any document or evidence in relation to the product scope or any other issue at this stage of the investigations. The rejection of the fresh documents / evidence would be in accordance of the principles of natural justice and would also be in line with the consistent practice of the Authority followed in plethora of the case including Saccharin and CR Coil case.

Examination by the Authority

98. The Authority notes that all the issues raised by the other interested parties post issue of disclosure statement are by and large reiteration of their earlier

submissions which have been appropriately dealt by the Authority in the relevant sections in the disclosure statement and now in the final findings also. However, for the sake of clarity and explicit narration, the Authority reiterates its examination below on the post disclosure submissions made by the other interested parties. The authority had in the disclosure statement captured essence and summarized various submissions appropriately rather than narrating each and every submission.

99. With regard to the submission of capability, production and domestic sales of different sizes and thicknesses of the subject goods by the domestic industry, the Authority notes that in the disclosure statement it has been clarified that the domestic industry has the capability to produce various thicknesses and sizes. Further, the Authority during the domestic verification had verified the same and holds that domestic industry has the capability to produce and did produce different thicknesses and sizes of the subject goods during the POI. Further, production and sales of subject goods in commercial quantities is dependent on demand and sales orders placed.
100. As regards the issue of exclusion of tinted/coloured glass, the Authority notes that production of tinted/coloured glass requires same plant and equipment with no technological upgradation. In view of this, these goods cannot be excluded from the scope of investigation as it might lead to circumvention.
101. With regards to the issue of quality, the Authority notes that may be the quality of Sheet Glass from China is better however; dumping is to address unfair price aspects. Further, difference in quality could only lead to consideration of exclusion from scope of investigation if it leads to emergence of a different article not passing the test of a like article. In this case the imported subject goods and the goods produced by the domestic industry have been held as 'like article'.
102. As regards the issue of public interest, the Authority notes that the purpose of anti-dumping duty is only to create a level playing field and to provide relief to domestic industry due to injurious effect of dumping. Further, it is noted that the anti-dumping duty is not envisaged to provide undue protection to the domestic industry. The Indian AD Rules further adopt the lesser duty rule for levy of Anti-dumping duty i.e the duty is limited to lower of the Dumping or Injury margin so that the interest of other stakeholders also gets addressed and a balanced view is taken.

103. With regard to the claim of other interested parties to place the domestic invoices in public file, the Authority notes that the domestic industry has claimed confidentiality regarding the same and it has been its consistent practice to admit confidentiality claims on domestic sales/ pricing/customers etc.
104. In response to the claim about refusal to accept the export price of the exporter who has exported only one consignment during the POI, the Authority reiterates its observation as mentioned in the disclosure statement that this consignment is not significant to establish a fair and realistic export price. Further, the Authority has followed this approach consistently in its earlier determinations as well.
105. As regards the contention on the standing of the domestic industry, the Authority reiterates that the sheet glass and float glass have not been considered as like article. The scope of investigation being is limited to sheet glass only and therefore, the issue of standing of domestic industry is trivial. The Authority therefore reiterates its finding on petitioner qualifying as domestic industry.
106. With regard to the issue of sorting of DGCI&S data, the Authority notes that the Non Confidential version of the petition was already available in the public file. Some interested parties have made their submissions on the basis of this data.
107. With regard to the issue of confidentiality, the Authority notes that it has considered and granted the claim of confidentiality on various parameters keeping in view its practice and principles of natural justice.
108. As regards the construction of normal value and grant of individual normal value and consequently dumping margin, the Authority notes that in the absence of response from the producer/exporter, individual dumping margin cannot be evaluated for any cooperating exporters. Further, the methodology on construction of normal value has been adopted as per the relevant provisions of the Anti-dumping Rules.
109. The authority has examined various injury parameters including profitability specifically for the subject goods under consideration during the period of investigation. The NIP has been determined as per the guidelines incorporated under the AD rules and consistent with the existing practice of determination. The profit shown in the Balance Sheet is reflecting the profitability of company as a whole, whereas the profit show in para 69 is relating to the PUC only.

K Conclusion on material injury

110. Based on the above, the Authority concludes that the dumped imports of the subject goods from the subject country have increased in absolute terms as well as in relation to production and consumption of the subject goods in India. Imports of the product were undercutting the prices of the domestic industry in the market. Further, while the cost of production kept increasing over the injury period, the increase in selling price did not commensurate with the increase in the cost of production. The imports were thus suppressing the prices of the domestic industry and preventing the price increases that would have otherwise occurred in the absence of dumped imports. With regard to consequent impact of the dumped imports on the domestic industry, it is observed that while the demand for the product increased very significantly, the production and sales of the domestic industry declined due to the marked increase in the dumped imports. Resultantly, the domestic industry lost market share which, in turn, affected other performance parameters.

111. The Authority notes that the domestic industry has suffered injury on account of volume as well as price effect of imports, as a result of which the profitability of the domestic industry has declined. Return on capital employed and cash profits followed the same trend as that of profits. Both return on capital employed and cash profits marked negative growths in POI. Thus, growth in respect of most of the parameters such as production, sales, capacity utilization, profits, cash profits, return on capital employed, market share & inventory etc shows an adverse impact on the domestic industry. Thus, Authority concludes that the domestic industry has suffered material injury.

L CAUSAL LINK AND OTHER FACTORS

112. Having examined the existence of material injury, volume and price effects of the dumped imports on the prices of the domestic industry, in terms of its price underselling and price suppression, and depression effects, other indicative parameters listed under the Indian Rules and Agreement on Anti-Dumping have been examined to see whether 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 third country

113. During POI, imports of the subject goods from country other than the subject country have been insignificant in volume. Therefore, the imports from other country cannot be considered to have caused injury to the domestic industry.

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

114. It is noted that there is a single market for the subject goods where dumped imports from the subject country compete directly with the subject goods supplied by the domestic industry. It is also noted that the imported subject goods and domestically produced goods are like articles and are used for similar applications/end uses. There is no evidence of trade restrictive practices of and competition between the foreign producers and domestic producers causing injury to the domestic industry.

(c) Contraction of demand or Changes in the pattern of consumption

115. The Authority notes that demand for the product showed significant increase during the injury period and also during POI. The Authority thus concludes that injury to the domestic industry was not due to contraction in demand.

(d) Development in Technology

116. None of the interested parties has furnished any evidence to demonstrate significant changes in technology that could have caused injury to the domestic industry.

(e) Export performance of Domestic Industry;

117. Domestic industry is not indulged in the export sales during the entire injury investigation period. Therefore, Authority concludes that injury to the domestic industry was not due to export performance of the domestic industry.

(f) Productivity of the Domestic Industry

118. Productivity of the domestic industry almost remained at the same level throughout the injury period. Accordingly, it is clear that the injury to the domestic industry is not on account of loss of productivity.

119. From the foregoing, the Authority concludes that there is no evidence of injury being caused due to factors other than dumping.

M FACTORS ESTABLISHING CAUSAL LINK

120. Analysis of the performance of the domestic industry over the injury period shows that the performance of the domestic industry has materially deteriorated over the injury period. The causal link between dumped imports and the injury to the domestic industry is established on the following grounds:

- a) Imports from subject country are undercutting the prices of the domestic industry. Resultantly, the volume of imports has increased significantly;
- b) Market share of the dumped imports increased significantly and consequently, market share of the domestic industry declined;
- c) Price undercutting being caused by the dumped imports is preventing the domestic industry from increasing its prices commensurate with the increase in costs resulting in decline in the profitability of the domestic industry during the POI as compared to the base year.
- d) The price depression effect of the dumped imports is evidenced from the fact that there is significant decline in profitability to the domestic industry;
- e) Deterioration in profits, return on capital employed and cash profits are directly a result of dumped imports;
- f) The growth of the domestic industry became negative in terms of a price related economic as well as volume parameters.

121. The above grounds clearly establish existence of causal link between the dumped imports and injury to the domestic industry. Thus, the Authority concludes that the domestic industry suffered material injury due to dumped imports of the subject goods originating in or exported from the subject country.

N MAGNITUDE OF INJURY AND INJURY MARGIN

122. The Authority has determined non-injurious price for the domestic industry on the basis of principles laid down in the Rules, as amended. The non-injurious price so determined has been compared with the landed prices of imports from the subject country.

Producers and Exporters from China PR

123. Injury margin for all producers and exporters from China PR has been determined by the Authority on the basis of best available facts.

Particulars	Non Injurious Price- US\$/MT	Landed price - US\$/ MT	Injury Margin - US\$/ MT	Injury Margin -%	Injury Margin Range - %
All producers and Exporters from China PR	***	***	***	***	20-30

O CONCLUSIONS:

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

- a. The product under consideration has been exported to India from subject country below its normal value, thus resulting in dumping of the product.
- b. The domestic industry has suffered material injury due to dumping of the product under consideration from the subject country.

P INDIAN INDUSTRY'S INTEREST & OTHER ISSUES

125. The Authority notes that the purpose of anti-dumping duties, in general, is to eliminate injury caused to the domestic industry by the unfair trade practices of

dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the Country. Imposition of anti-dumping measures would not restrict imports from the subject country in any way, and, therefore, would not affect the availability of the products to the consumers.

126. It is recognized that the imposition of anti-dumping duties might affect the price levels of the products manufactured using the subject goods and consequently might have some influence on relative competitiveness of these products. 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 also prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods. Imposition of anti-dumping measures would not restrict imports from the subject country in any way, and therefore, would not affect the availability of the product to the consumers.

Q RECOMMENDATIONS

127. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the exporters, importers and other interested parties to provide information/submissions on all aspect of the investigations including dumping, injury and causal link. Having initiated and conducted investigation into dumping, injury and causal link in terms of the provisions laid down under the Anti-dumping Rules and having established positive dumping margin as well as material injury to the domestic industry caused by such dumped imports, the Authority is of the view that imposition of duty is required to offset dumping and injury, pending completion of the investigation. Further, the domestic industry has also represented that they continue to suffer injury on account of low value dumped imports from the subject country. Therefore, the Authority considers it necessary to recommend imposition of anti-dumping duty on imports of subject goods from the subject country in the form and manner described hereunder.

128. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of anti-dumping duty equal to the lesser of margin of dumping and the margin of injury, so as to remove the injury to the domestic industry. Accordingly, antidumping duty equal to the amount mentioned in Col 8 of

the table below is recommended to be imposed by the Central Government, on all imports of subject goods originating in or exported from China PR.

DUTY TABLE

Sl.No	Heading	Description of goods	Country of origin	Country of export	Producer	Exporter	Duty amount	Unit	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1	7004 20 11 & 7004 20 19	Sheet Glass	China PR	China PR	Any	Any	63	MT	US\$
2	Do	Do	Any	China PR	Any	Any	63	MT	US\$
3	Do	Do	China PR	Any	Any	Any	63	MT	US\$

* The subject goods are also being imported under other tariff headings such as 70031290, 70031990, 70033090, 70042099, 70049019, 70049099, 70052110, 70053090, 70091090, 70091010, 70099100, 70119090 etc. However, the customs classification is indicative only and is not binding on the scope of this investigation.

129. 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.

130. 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