

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

NOTIFICATION

NEW DELHI, the 27th June, 2011

PRELIMINARY FINDINGS

Subject:- Preliminary Findings of Anti-Dumping Investigation concerning imports of 'Opal Glassware' originating in or exported from China PR and UAE.

No.14/24/2010-DGAD: - Having regard to the Customs Tariff Act 1975 as amended from time to time (hereinafter referred as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules thereof, as amended from time to time (hereinafter referred as the AD Rules);

A. PROCEDURE

1. The procedure described herein below has been followed:
 - i. The Designated Authority (hereinafter referred to as the Authority), under the above Rules, received a written application from La Opala RG Limited on behalf of the domestic industry, alleging dumping of 'Opal Glassware' (hereinafter also referred to as the subject goods); originating in or exported from China PR and UAE (hereinafter also referred to as the subject countries).
 - ii. The Authority notified the High Commissions/Embassies of the subject countries in India about the receipt of the anti-dumping application before proceeding to initiate the investigation in accordance with sub-rule (5) of Rule 1995;
 - iii. The Authority on the basis of sufficient evidence submitted by the applicant on behalf of the domestic industry issued a public notice dated 26th August 2010 published in the Gazette of India, Extraordinary, initiating Anti-Dumping investigations concerning imports of 'Opal Glassware' originating in or exported from subject countries, in accordance with the sub-Rule 6(1) of the AD Rules to determine the existence, degree and effect of alleged dumping and to recommend the amount of anti-dumping duty, which, if levied, would be adequate to remove the injury to the domestic industry.
 - iv. The Designated Authority sent a copy of initiation notification dated 26th August 2010, to the High Commissions/Embassies of the subject countries in India, known exporters from subject countries, known importers/ users and the domestic industry as per the addresses made available by the applicant and requested them to make their views known in writing within 40 days from the initiation notification.

- v. The Authority provided a copy of the non-confidential version of the application to the known exporters and to the High Commissions/ Embassies of the subject countries in India in accordance with Rule 6(3).
- vi. The High Commissions/Embassies of the subject countries in India were informed about the initiation of the investigation in accordance with Rule 6(2) of the AD Rules with a request to advise the exporters/producers from their country to respond to the questionnaire within prescribed time limit. A copy of the letter and questionnaire sent to the exporters was also sent to them along with the names and addresses of the known exporters.
- vii. The Authority sent questionnaires to elicit relevant information to the following known exporters in subject countries in accordance with Rule 6(4) of the AD Rules:
 - a. Arc International Middle East, East LLC, UAE.
 - b. Sanghai Family Industrial Development Co. Ltd., China PR
 - c. Wenzhou Huishunda Industrial Co. Ltd., China PR
 - d. Sanynam CeramicsLtd., China PR
 - e. Shenzhen Guanagtong Co. Ltd., China PR
 - f. Xianning Huimeida Industry & Trade Co. Ltd., China PR
 - g. Shaoxing Jielong Glassware Co. Ltd., China PR
 - h. Anhui Deli Glassware Co. Ltd., China PR
 - i. Yiwn City Longfei Imports and Exports Co. Ltd., China PR
 - j. Wenzhou Cathylin International Trade Co. Ltd., China PR
 - k. Anhui Sunhere, China PR
 - l. Zhejiang Chengtai, China PR
 - m. M/s Whole Wealth Limited, China PR
- viii. In response to the above notification, following exporter has responded:
 - a. Wenzhou Huishunda Industrial Co. Ltd., China PR
- ix. Questionnaires were sent to the following known importers / users of subject goods in India calling for necessary information in accordance with Rule 6(4) of the AD Rules:
 - a. Talwar Agencies Pvt Ltd., New Delhi
 - b. Home Maker Enterprises Pvt Ltd., New Delhi;
 - c. Taneja Crockery Pvt Ltd. New Delhi;
 - d. Chiraj Appliances Pvt Ltd. Kolkata;
 - e. Paras International New Delhi;
 - f. Baron Agencies Pvt. Ltd. Kolkata;
 - g. Aditya Promoters Ltd. New Delhi;
 - h. Seven Seas Corporation, Thane, Maharashtra;
 - i. Laxmi Crockery Pune Pvt. Ltd., Pune, Maharashtra;
 - j. Vishal Retail Ltd., New Delhi;
 - k. Siddharth Enterprises, Baruch, Gujarat;
 - l. Merge Enterprises, Mumbai, Maharashtra;
 - m. Raj Agencies, Pune, Maharashtra;

- n. Hamilton House wares Pvt. Ltd., Dadra;
 - o. K.P. International, New Delhi;
 - p. Trade Trekkers, New Delhi;
 - q. W.K.C Glassware Pvt Ltd., New Delhi;
 - r. Rudra International; New Delhi.
- x. In response to the above notification, none of the importers have responded.
- xi. The Authority had made available non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by the interested parties;
- xii. A Market Economy Treatment (MET) questionnaire was forwarded to all the known exporters/producers and Embassy of China PR in New Delhi. The Authority informed known exporters that it proposes to examine the claim of the applicants in the light of paras 7 and 8 of Annexure I of the AD Rules. The exporters/producers of the subject goods from China PR were therefore requested to furnish necessary information/sufficient evidence as mentioned in sub-paragraph (3) of paragraph 8 of the Annexure of the AD Rules to enable the Authority to consider whether market economy treatment be granted to cooperative exporters/producers from China PR.
- xiii. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of imports of subject goods for the past three years, including the period of investigation.
- xiv. Optimum cost of production and cost to make & sell the subject goods in India based on the information furnished by the applicant on the basis of Generally Accepted Accounting Principles (GAAP) was worked out so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to Domestic Industry.
- xv. Investigation was carried out for the period starting from 1st April 2009 -31st March 2010 (Period of Investigation). The examination of trends, for the purpose of injury analysis, covered the periods 2006-07, 2007-08 and 2008-09 and the Period of Investigation.
- xvi. ***in this notification represents information furnished by an interested party on confidential basis, and so considered by the Authority under the AD Rules.

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

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

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

Examination by Authority:-

3. The Authority has examined the above issues as under:-

- i) Advance Intimation letter to the Embassy of UAE in New Delhi was issued by e.mail on 23.8.2010 and the proceedings were initiated on 26.8.2010. Thus, the Government of UAE was notified prior to initiation of the investigation.
- ii) The Authority considers that the product under consideration in the present case in Opal Glassware which is produced and sold in different types. Different types of Opal Glassware constitute one product in terms of manufacturing process, production technology, raw materials and customs classification. While the use of different glassware types may be different, it does not render different types dislike articles. Different types of Opal Glassware products are sold in a 'set'. Different types of sets offer a wide variety of the product under consideration and the manufacturers can readily switch from one type of glassware to the other. The Authority thus holds that different types of glassware constitute one product. As regards fair comparison between normal value and export price, the Authority notes that none of the exporters nor producers from UAE has cooperated in the investigation. The Authority has considered the cost/price on the basis of weight rather than numbers/sets so as to obviate the problem posed by variety of sizes/types involved in the latter.
- iii) The Authority has carried out the injury assessment for the domestic industry as a whole and not plant-wise. The cost of production of new plant has not been considered in isolation for this purpose.
- iv) The Authority has undertaken a cumulative assessment of effects of imports from subject countries on the domestic industry. The Authority is required to do so under the Rules as the conditions specified in the Rules are met in the present case. The Government of UAE nor an exporter from UAE has contested the appropriateness of cumulative assessment of effects of imports in the present investigation.
- v) The various parameters of injury including relevant economic parameters have been duly examined by the Authority at appropriate places in the present findings.

- vi) The Authority notes that none of the producers from UAE has cooperated in the present investigation and provided requisite information relating to normal value in the prescribed form and manner. In the absence of evidence of normal value based on domestic selling price or actual cost of production of a manufacturer in UAE, the Authority has no option but to construct the normal value on the basis of best information available on record.
- vii) The Authority notes that no exporter from UAE has furnished exporters questionnaire response indicating export price. Therefore, the Authority has provisionally determined the export price for UAE as indicated in the relevant para of the present findings. The causal link has also been examined in the present findings.

B. Product under consideration

4. The product under consideration is Opal Glassware of all types. Opal Glass is a milky white glass, widely used in lighting fixtures and tableware. It has a property of diffusing light, which makes Opal Glassware attractive. Sand/ Quartz, Lime, Dolomite, Trona, Orthoclase, Borax, Albite are used to produce opal glass for manufacturing opal glassware. The product under consideration is used for general serving including serving of tea, coffee, soup, and snacks.
5. Opal Glassware is classified under Custom Sub Heading No. 7013 under the Custom Tariff Act, 1975. The classification is, however indicative only and is in no way binding on the scope of the present investigation.
6. The Authority notes that no other interested party has offered comments in regard to product under consideration.
7. The Authority holds the above stated description of the product as Product under Consideration for the purpose of present investigation.

C. Like article

8. 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.

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

10. None of the opposing interested parties has raised any objection in this regard.
11. The Authority holds that the subject goods produced by the domestic industry are like article to the same imported from the subject countries in terms of parameters such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification.

D. Scope Of Domestic Industry and Standing

12. Rule 2 (b) of the AD rules defines domestic industry as under:

"domestic industry" means the domestic producers as a whole engaged in the manufacture of the like article and any activity connected therewith or those

whose collective output of the said article constitutes a major proportion of the total domestic production of that article except when such producers are related to the exporters or importers of the alleged dumped article or are themselves importers thereof in which case the term 'domestic industry' may be construed as referring to the rest of the producers only".

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

E. Normal value, Export price and Dumping Margin

E.1 Market Economy Treatment for Exporters from China PR

14. At the stage of initiation, the Authority proceeded with the presumption of China PR as a non-market economy country as per para 8(2) of Annexure 1 of the Rules, for purposes of an anti dumping investigation. Upon initiation, the Authority advised the producers/Exporters in the country to respond to the notice of initiation and provide information relevant to determination of their market economy status.
15. The Authority sent copies of the MET questionnaire to all the known exporters for rebutting presumption of non market economy in accordance with criteria laid down in para 8(3) of Annexure-I to the Rules. The Authority also requested Government of China PR to advise producers/exporters in their country to provide information.
16. M/S Wenzhou Huishunda Industrial Trade Co. Ltd., China PR responded to the MET questionnaire. The following submissions have been made by the exporter:-

Submissions made by the Exporter

17. a) Huishunda is a privately owned limited liability company since its establishment in 1996. The shareholders of the Co. include three private person. There are no parent companies or subsidiaries of the CO. which are affiliated with the company.
- b) Huishunda is a limited liability CO. which is established according to the Company Law of the People's Republic of China, and conducts its operation pursuant to the market rules; there isn't any relationship between Huishunda and the national provincial and local governments including ministries or offices of those governments.
- c) Huishunda producers and exports the subject merchandise to India independently, the company has no relationship with other producers or exporters of the subject merchandise.
- d) Huishunda does not own or control other producers/ exporters of the subject merchandise.
- e) There is operating term in the business license, upon expiration of the business license, if the shareholders to extend the contract period, they shall apply to the approval authority six months ahead of the expiration and after approval of the pertinent authority, the business license will be renewed.
- f) There is no control on exports of the subject merchandise to India or other countries.
- g) The subject goods do not appear on any government list regarding export provisions or export licensing.
- h) The development of products is conducted independently by Co.'s technical and research department. When the sales department accepts sales order of product, the production department will instruct manufacturing plan to relevant department in the Co.
- i) Huishunda purchases raw material from the free market after negotiation with the suppliers and the prices of the major inputs are determined by the market value.
- j) Huishunda sells products to the distributors both in India and domestic market. Te Co. doesn't have any exclusive relationship or affiliated relationship with raw material suppliers, domestic or export customers.
- k) According to article of association, the general manager is appointed by the executive director. Other senior managers are appointed by general manager. There is no need to notify any governmental authorities about appointment of directors/ managers.

Submissions of the petitioner

18. It has been contended by the domestic industry that China PR should be treated as Non market economic country in view of the following:-

- (i) The response given to various questions in the MET questioner are very cryptic and insufficient.

- (ii) In response to Question 2 D, list of shareholders it has been stated by the company that out of three share holders of the company, two are private persons. The position of third shareholder has not been disclosed and the reason for the same has also not been provided.
- (iii) In response to Question No. 2 H, it has been state that the company has no board of directors. How can a company which is incorporated under the Chinese company law, will not have a board of Director when it is the mandatory requirement for incorporation of the company under the law? On this ground, the MET should not be granted.
- (iv) In response to Question No.5(g), it has been stated that Huishunda after tax profits of current year, it draws 10% of the profits as the Company's statutory reserve funds and 5-10% to its statutory welfare fund. IF the statutory reserve funds is not sufficient to cover the Company's loss from the previous year, the current year profit is used to cover such losses before allocation is made to the statutory reserve and welfare funds. Is this allocation and re-allocation of funds in consonance with the Chinese GAAP as is being claimed by the Company?
- (v) The answer to Question No.5(h) clearly indicate that they suffered loss on account of export sales but no reason for the same is provided. To add further, the Company distribute the profits unless the losses of previous fiscal years have been recovered. Hence, MET should not be granted.
- (vi) There is no information with regard to the source from which the machinery and other fixed assets were procured by Huishunda.
- (vii) In view of the incomplete MET response, their MET claims should be rejected.

E.2 Examination by the Authority

19. The Authority indicated, in the initiation notification that the applicant claimed determination of Normal value on the basis of the provision contained in para 7 of Annexure I to the Rules. Opportunity was also provided to the known exporters of China PR to rebut the presumption of normal value.

20. The Authority notes that as per Paragraph 8 of Annexure I of the AD Rules, the presumption of a non-market economy can be rebutted, if the exporter(s) from China PR provide information and sufficient evidence on the basis of the criteria specified in sub paragraph (3) of Paragraph 8, listed below, and establish the facts to the contrary.

- a) the decisions of concerned firms in China PR regarding prices, costs and inputs, including raw materials, cost of technology and labour, output, sales and investment are made in response to market signals reflecting supply and demand and without significant State interference in this regard, and whether costs of major inputs substantially reflect market values;
- b) the production costs and financial situation of such firms are subject to significant distortions carried over from the former non-market economy system, in

- particular in relation to depreciation of assets, other write-offs, barter trade and payment via compensation of debts;
- c) such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms and
 - d) the exchange rate conversions are carried out at the market rate.

21. The Authority notes, barring Wenzhou Huishunda Industrial Trade Co. Ltd. none of the Chinese exporters have submitted questionnaire responses including the market economy questionnaire response nor have sought to rebut the non-market economy presumption. Wenzhou Huishunda Industrial Trade Co. Ltd. has filed exporter's questionnaire response as well as market economy treatment response which has been examined by the Authority.

22. From the examination of Wenzhou Huishunda Industrial Trade Co. Ltd.'s MET questionnaire response, the Authority notes as under:-

- a) The exporter has claimed that the company does not have a Board of Directors. In the absence of a Board of Directors, the Authority is not in a position to determine as to how business decisions regarding prices, costs and inputs, including raw materials, cost of technology and labour, output, sales and investment are made in response to market signals reflecting supply and demand and without significant State interference in this regard.
- b) The exporter has not provided any evidence to show that the prices of major inputs substantially reflect market values.

23. In view of the above, the Authority has decided not to grant market economy status to the company at this stage. A final view in the matter will be taken by the Authority after verification of information submitted by Huishunda in the MET Questionnaire response. In the circumstances, the Authority proceeds with the provision of para 7 of Annexure-1 to the Rules for determination of normal value for all producers/exporters in China PR.

E.3 Methodology adopted for constructing Normal Value in case of China PR.

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

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

aforesaid selection of the market economy third country and shall be given a reasonable period of time to offer their comments.”

25. The Authority notes that the petitioner has not submitted the relevant information for constructed value in market economy third country as the same is not available. As per practice, the authority has resorted to constructed normal value in case of non market economy country in the absence of relevant information relating to alternative methods of determination of normal value. Accordingly, The Authority has constructed the normal value for all producers in China PR on the following basis: –

- (a) Prices of major input Borax, Boric Acid, Soda Ash have been considered on the basis of the international prices, i.e. World export price to China as per World Trade Atlas.
- (b) Consumption of raw materials per unit of production has been considered on the basis of information/data of efficient producer of the domestic industry.
- (c) Conversion costs have been considered on the basis of information/data of efficient producer of the domestic industry.
- (d) Selling, general & administrative costs (including interest costs) have been taken on the basis of information/data of efficient producer of the domestic industry.
- (e) Profit has been added @ 5% of ex-factory cost excluding interest.

Accordingly, the Normal Value of Opal Glassware for all exporters from China PR has been determined as at US\$ *** per kg.

Normal Value in UAE

26. The Authority wrote to the known producers/exporters of the product under consideration in UAE advising them to respond to the Authority in the form and manner prescribed. A copy of the communication sent to the known exporters in UAE was also sent to the Govt. of UAE. However, none of the producers of the product in UAE have responded to the Designated Authority. The Authority has therefore determined Normal Value as per facts available in terms of Rule 6(8) of the AD Rules. The domestic industry has stated that efforts were made by them to get information/evidence of price of subject goods in the domestic market of UAE. The domestic industry has not been able to get any information/evidence of price of subject goods in the domestic market of UAE. The domestic industry further stated that there are limited number of producers of the product in UAE (only one known to the petitioner), who sell the product more on transaction to transaction basis pricing. The actual retail sale price in the market would be significantly distorting and would lead to significantly higher dumping margin. Hence, Authority has constructed the normal value for the producers in UAE on the following basis –

- a) Prices of major input Borax, Boric Acid, Soda Ash have been considered on the basis of the international prices i.e. export prices of the world to India as per World Trade Atlas, as the same to UAE are not available for the relevant period.
- b) Consumption of raw materials per unit of production has been considered on the basis of information/data of efficient producer of the domestic industry.

- c) Conversion costs have been considered on the basis of information/data of efficient producer of the domestic industry.
- d) Selling, general & administrative costs (including interest costs) have been taken on the basis of information/data of efficient producer of the domestic industry.
- e) Profit has been added @ 5% of ex-factory cost excluding interest.

Accordingly, the Normal Value of Opal Glassware for all exporters from UAE has been determined as at US\$ *** per kg.

I) Export Price in China PR

F.1 M/s Wenzhou Huishunda Industrial Trade Co. Ltd., China PR

27. M/s. Huishunda, China in their response to exporter's questionnaire, has provided transaction-wise information relating to exports to India in the form and manner prescribed. The Company has exported *** kgs of subject goods to India during the POI of value US \$ *** (invoice value), i.e. US\$ ***/kg. The Authority notes that the export sales to India are on FOB basis. Adjustments have been claimed by the exporter on port charges, bank charges, credit cost, VAT (all before FOB), Overseas freight, and overseas insurance (after FOB). The total adjustment claimed by the exporter on these heads is US\$ ***/kg. The company's export price to India during the POI and the adjustments claimed thereon has been admitted by the Authority for the purpose of preliminary findings, subject to verification. Thus, the net export price i.e. export price at ex-factory level, for M/s Wenzhou Huishunda Industrial Trade Co. Ltd., China PR is provisionally determined at US\$ ***/kg.

Non-cooperative exporters

28. In respect of exporters of China PR in the residual category, the Authority has considered the export price of US\$ ***/kg (CIF) obtained from DGCI&S source. Adjustments have been considered on account of port charges, bank charges, credit cost, VAT, Overseas freight and overseas insurance, as claimed by the cooperative exporter. Thus, the net export price is provisionally determined as US\$ ***/kg.

Export price in UAE

29. The Authority notes that neither exporter from UAE nor any importer of subject goods in India has submitted the requisite Questionnaire response giving details of the export price. The Authority has adopted the export price (CIF) of US \$ ***/kg for all exporters of UAE based on DGCI&S data. Adjustments of US\$ ***/kg on freight, insurance, commission, port expenses, inland freight and bank charges, as claimed by the petitioner, have been considered by the Authority to arrive at the net export price. Thus, export price at ex-factory level is provisionally determined as US\$ ***/kg.

Dumping margin

30. The rules relating to determination of dumping margin provides as follows:-

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

31. On the basis of comparison of normal value and export price at ex-factory level as determined above, the dumping margin for the producers/exporters of the subject goods in the subject countries is provisionally worked out as under:-

Country	Producer/ Exporter	Normal Value USD/kg	Export price USD/kg	Dumping Margin	Dumping Margin (%)
China PR	M/s Wenzhou Huishunda Industrial Trade Co. Ltd., (producer) M/s Wenzhou Huishunda Industrial Trade Co. Ltd., (exporter)	***	***	***	50-55
	All other combinations	***	***	***	70-75
UAE	All Producers/ Exporters	***	***	***	40-45

G.Injury to the domestic industry

32. Annexure II (iii) of the Anti Dumping Rules requires that in case imports of a product from more than one country are being simultaneously subject to anti dumping investigations, the Designated Authority will cumulatively assess the effect of such dumped imports, in case it determines that:

- (i) The margin of dumping established in relation to the imports from each country is more than two percent expressed as percentage of export price and the volume of the imports from each country is three percent of the imports of the like article or where the export of the individual countries less than three percent, the imports cumulatively accounts for more than seven percent of the imports of like article, and;

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

33. Following are relevant in this regard:

(a) The margin of dumping from each of the subject countries is more than the limit prescribed above;

(b) Cumulative assessment of the effects of imports is appropriate since the exports from the subject countries directly compete with the like goods offered by the domestic industry in the Indian market, as would be seen from the following information:

a. The product manufactured by the producers from the subject countries inter-se and in comparison to the product manufactured by domestic industry has comparable properties. In other words, goods supplied by various subject countries and by the domestic industry are inter-se like articles.

b. Imported and domestic materials are being used interchangeably and there is direct competition between the domestic product and imported product.

c. The landed values of such imported material from subject countries are below the selling price of domestic industry. This clearly establishes competition amongst Foreign Producers inter-se as also with Indian Producers.

d. The exporters from the subject countries and domestic industry have sold the same product in the same periods to same customer. The petitioner has been selling the product directly as also through their agent and exporters from subject countries are exporting directly as also through their agent. The sales channels are comparable.

e. Volume of imports from each of the subject countries is significant.

f. Domestic producer and exporters from the subject countries sell the like product to the same category of customers and both are competing in the same market. Both are being used by the consumers interchangeably.

34. In view of the above, the Authority notes that it is appropriate to cumulatively assess the effects of imports of the subject goods from China PR and UAE on the domestically produced like article, in the light of conditions of competition between the imported products and the like domestic product.

35. 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.

36. 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.”

37. The Authority notes that the margin of dumping and quantum of imports from subject countries are more than the limits prescribed above. Cumulative assessment of the effects of imports is appropriate since the export prices from the subject countries were directly competing with the prices offered by the domestic industry in the Indian market.

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

a. Volume effect of imports:

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

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

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

- a. Volume of dumped imports from China PR has increased significantly in absolute terms over the injury period;

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

Demand and market share

Particulars	Unit	2006-07	2007-08	2008-09	2009-10
Sales (domestic) of Domestic industry	MT	2,367	2,456	2,573	3,390
Trend	Indexed	100	104	109	143
Imports in India from subject countries	MT	1,045	1,879	1,314	2,559
Trend	Indexed	100	180	126	245
Demand in India	MT	3,935	5,088	4,033	6,100
Trend	Indexed	100	129	102	155
Market Share in demand					
Subject Countries	%	26.56	36.93	32.58	41.95
China PR	%	4.43	14.20	21.08	32.38
U A E	%	22.13	22.73	11.50	9.57
Other Countries	%	13.30	14.80	3.62	2.49
Share of Domestic Industry	%	60.14	48.27	63.80	55.56

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

b. Price effect of Imports

42. With regard to the effect of the dumped imports on prices, the Designated Authority is required to consider whether there has been a significant price undercutting by the dumped imports as compared with the price of the like products in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. The impact of dumped imports on the prices of the domestic industry has been examined with reference to the price undercutting, price suppression and price depression, if any. For the purpose of this analysis, the cost of production, net sales realization (NSR) and the non-injurious price (NIP) of the domestic industry have been compared with the landed cost of imports from the subject countries. The net sales realization was arrived after deducting all rebates and taxes. Landed value of imports has been calculated by adding 1% handling charge and applicable basic customs duty to the CIF value of subject imports. The landed value of imports was compared with net sales realization of the domestic industry and it was found that the dumped imports are undercutting the prices of the domestic industry.

Price undercutting

43. In order to determine whether the imports are undercutting the prices of the domestic industry in the market, the Authority has compared landed price of imports with net sales realization of the domestic industry. Authority has determined net sales realization considering selling price, excluding taxes & duties, rebates, discounts & commissions. Entire sales volumes of the domestic industry have been included in the calculations. Landed price of imports has been determined considering weighted average CIF import price, with 1% landing charges and applicable basic customs duty. The comparison was done between net sales realization and landed price of imports. The Authority notes that the landed prices of the subject goods are significantly below the selling price of the domestic industry which suggests significant price undercutting being caused by the dumped imports.

		China PR				UAE			
Particulars	Unit	2006-07	2007-08	2008-09	2009-10	2006-07	2007-08	2008-09	2009-10
Landed Value	Rs./ Kg	***	***	***	***	***	***	***	***
NSR of the Domestic Industry	Rs/ Kg	***	***	***	***	***	***	***	***
Price Undercutting	Rs./ Kg	***	***	***	***	***	***	***	***
Price Undercutting	%	45-55	55-60	55-60	40-45	15-20	20-25	5-10	30-35

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

Price suppression/depression

44. In order to determine whether the dumped imports are suppressing or depressing the domestic prices, the Authority determined whether the effect of such imports is to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. For the purpose, the import prices of subject goods have been compared with the trends in cost of production and selling price of the domestic industry.

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

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

c. Economic parameters relating to the domestic industry

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

i. Production, domestic sales & capacity utilization:

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

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

ii. Profitability

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

Particulars	Units	2006-07	2007-08	2008-09	2009-10

Cost of Sales	Rs/Kg	***	***	***	***
Trend	Indexed	100	100	119	137
Selling price	Rs/Kg	***	***	***	***
Trend	Indexed	100	102	112	116
Profit/loss	Rs/Kg	***	***	***	***
Trend	Indexed	100	113	73	-10
Profit/loss	Rs (lacs)	***	***	***	***
Trend	Indexed	100	117	80	-15

iii. Employment and wages:

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

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

iv. Productivity

Particulars	Unit	2006-07	2007-08	2008-09	2009-10
Productivity per Employee	Kg/No	***	***	***	***
Trend	Indexed	100	86	137	107
Productivity per day	Kg/Day	***	***	***	***
Trend	Indexed	100	95	163	125

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

v. Return on investments and cash flow

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

Particulars	Unit	2006-07	2007-08	2008-09	2009-10
Profit/loss	Rs./Lacs	***	***	***	***
Trend	Indexed	100	117	80	(15)
Profit per unit	Rs/Kg	***	***	***	***
		100	113	73	-10
Depreciation	Rs./Lacs	***	***	***	***
Trend	Indexed	100	220	247	231
Cash Profit	Rs./Lacs	***	***	***	***
Trend	Indexed	100	141	118	41
Cash profit per unit	Rs/Kg	***	***	***	***
Trend	Indexed	100	136	108	29
Return on capital employed - NFA Basis	%	***	***	***	***
Trend	Indexed	100	62	55	20

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

vi. Inventories:

Particulars	Unit	2006-07	2007-08	2008-09	2009-10
Average Stock	MT	443	528	1,234	1,844
Trend	Indexed	100	119	279	417
Average Inventory as days sales	MT	71	63	205	155
Trend	Indexed	100	88	288	218
Domestic sales	MT	2,367	2,456	2,573	3,390
Trend	Indexed	100	104	109	143

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

vii. Growth:

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

viii. Ability to raise capital investments

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

ix. Magnitude of dumping and dumping margin

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

d. Conclusion on injury parameters

57. It is thus seen that

- a) Imports from subject countries have increased in absolute terms. The increase in imports is significant.
- b) Imports have increased in relation to imports in India, production and consumption in India.
- c) Imports are undercutting the prices of domestic industry to a significant extent.
- d) Selling prices of the domestic industry increased. However, cost of production of the domestic industry also increased. The increase in the selling price was lower than the increase in the cost of production. The dumped imports have thus caused price suppression.
- e) Domestic sales increased over the injury period. However, the increase in sales was lower than increase in demand and the domestic industry faced significant pile up of inventories.
- f) The domestic industry added capacities, which appear to be in line with increase in present and potential demand of the product in the Country. Utilisation of the capacities by the domestic industry has suffered during the injury period. Capacity utilisation of the domestic industry declined.
- g) Market share of the dumped imports has increased and that of domestic industry has declined.

- h) Profits, return on investment and cash profits of the domestic industry have deteriorated significantly. Examination of possible other factors for decline in profits does not show that the decline in profits is primarily due to other factors.
- i) Inventories with the domestic industry have increased significantly. The domestic industry has undertaken exports and production shutdown to liquidate the inventories, at significant financial losses.
- j) Volume parameters of the domestic industry declined in spite of existence of significant demand.
- k) Dumping margins as a parameter of injury are significant.
- l) Employment, wages and productivity does not show adverse impact of dumping. However, deterioration in other vital parameters outweighs the improvement in these parameters.

58. The Authority, therefore, concludes for the purpose of the preliminary findings that the domestic industry has suffered material injury.

H.Causal link

Other Known Injury factors and Causal Link

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

(a) Volume and prices of imports from other sources

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

(b) Contraction in demand

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

(c) Change in pattern of consumption

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

(d) Developments in technology

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

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

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

(f) Export performance of the domestic industry

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

(g) Productivity of the Domestic Industry

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

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

Factors showing causal link:

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

- (i) There is significant difference between the prices offered by the domestic industry and those offered by the exporters of the subject countries . Resultantly, domestic industry lost sales opportunity and market share. Thus, decline in market share and loss of sales opportunity is a direct consequence of dumped imports from subject country;
- (ii) Dumped imports are significantly undercutting the prices of the domestic industry. Resultantly, the domestic industry has been forced to reduce the prices.
- (iii) Deterioration in profits, return on capital employed and cash profits are directly a result of dumped imports;
- (iv) Imports increased significantly in absolute terms. Resultantly, the inventories with the domestic industry increased. As a result of increase in inventories, the domestic industry was forced to suspend production for a considerable period. Suspension of production by the domestic industry despite existence of significant demand in the Country was due to presence of dumped imports in the market.
- (v) Market share of the imports from subject countries increased significantly. As a direct consequence, the market share of the domestic industry declined.
- (vi) Growth of the domestic industry became negative in respect of a number of parameters

62. It is thus seen that the injury to the domestic industry has been caused by the dumped imports.

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

Table showing Injury Margin

Country	Producer/ Exporter	Non Injury Price USD/kg	Landed value USD/kg	Injury Margin USD/kg
China PR	M/s Wenzhou Huishunda Industrial Trade Co. Ltd., (producer)	***	***	***
	M/s Wenzhou Huishunda Industrial Trade Co. Ltd., (exporter)			
	All other combinations	***	***	***
UAE	All Producers/ Exporters	***	***	***

64. The level of dumping margins and injury margins as provisionally determined are considered significant.

I. Conclusion:

65. After examining the submissions made by the interested parties and issues raised therein; and considering the facts available on record, the Authority provisionally concludes that:

- i. The product under consideration has been exported to India from the subject countries below Normal values.
- ii. The domestic industry has suffered material injury on account of subject imports from subject countries.
- iii. The material injury has been caused by the dumped imports of subject goods from the subject countries.
- iv. The injury has been caused cumulatively by the imports from the subject countries.
- v.

J. Indian industry's interest & other issues:

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

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

K. Recommendation

68. The Authority notes that the investigation was initiated and it was notified to all interested parties. Adequate opportunity was given to the exporters, importers and other interested parties to provide information on the aspects of dumping, injury and causal link. Having initiated and conducted a preliminary investigation into dumping, injury and the causal link thereof in terms of the AD Rules and having provisionally established positive dumping margins as well as material injury to the domestic industry caused by such dumped imports, the Authority is of the view that imposition of provisional Anti-dumping duty is required to offset dumping and injury, pending completion of the investigation.

Duty table

69. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of provisional anti-dumping duty equal to the lesser of margin of dumping and margin of injury, so as to remove the injury to the domestic industry. Accordingly, provisional antidumping duty equal to the amount indicated in Col 7 of the table below is recommended to be imposed from the date of notification to be issued in this regard by the Central Government, on all imports of subject goods originating in or exported from the subject countries.

1	2	3	4	5	6	7
SN	Tariff Head	Description of goods	Country	Producer	Exporter	Duty amount (USD/kg)
1	7013	Opal Glass-ware	China PR	M/s Wenzhou Huishunda Industrial Trade Co. Ltd.,	M/s Wenzhou Huishunda Industrial Trade Co. Ltd.,	0.82
2	7013	-do-		Any other combination of producer/exporter		0.98

3	7013	-do-	UAE	Any producer	Any exporter	0.68
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L. Further Procedure

70. The following procedure would be followed subsequent to notifying the preliminary findings:

- (a) The Authority invites comments on these findings from all interested parties and the same would be considered in the final findings;
- (b) Exporters, importers, the applicant and other interested parties known to be concerned are being addressed separately by the Authority, who may make known their views, within forty days from the date of the dispatch of the these Preliminary findings. Any other interested party may also make known its views within forty days from the date of publication of these findings;
- (c) The Authority would hold a hearing to hear the views of various interested parties orally;
- (d) The Authority would conduct further verification to the extent deemed necessary;
- (e) The Authority would disclose essential facts as per the AD Rules before announcing final findings.

(Vijaylaxmi Joshi)
Designated Authority