

**TO BE PUBLISHED IN PART 1 SECTION-1 OF
THE GAZETTE OF INDIA- EXTRAORDINARY**

Government of India

Ministry of Commerce & Industry

Department of Commerce

Directorate General of Anti-Dumping & Allied Duties

4th Floor, Jeevan Tara Building, Parliament Street, New Delhi

Dated the 3rd July, 2017

FINAL FINDINGS

Subject: - Sunset Review of Anti-Dumping investigation on imports of “OPAL GLASSWARE” originating in or exported from China PR and UAE.

No. 15/4/2016 - 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, as amended from time to time (hereinafter also referred to as the Rules) thereof;

A. Background of the case

2. Whereas, the original anti-dumping investigation concerning imports of “Opal Glassware” (hereinafter referred to as subject goods) originating in or exported from China PR and UAE (hereinafter referred to as subject countries) was initiated by the Designated Authority (hereinafter also referred to as the Authority) vide Notification No. 14/24/2010-DGAD dated 26th August, 2010. The preliminary finding was issued by the Authority, recommending imposition of provisional anti-dumping duties on the imports of the subject goods, originating in or exported from China PR and UAE vide Notification No.14/24/2010-DGAD dated 27th June, 2011. The provisional duty was imposed by the Central Government on the imports of the subject goods, originating in or exported from China PR and UAE, vide Notification No.72/2011-Customs dated 9th August, 2011. The final findings notification of the Authority was published vide Notification No. 14/24/2010-DGAD, dated the 25th August, 2011. The definitive anti-dumping duty was imposed by the Central Government on the imports of the subject goods, originating in or exported from the subject countries vide Notification No. 103/2011-Customs, dated 23rd November, 2011.
3. Whereas, M/s. La Opala RG Limited and M/s. Hopewell Tableware Pvt. Ltd. (hereinafter referred to as ‘petitioner companies’ or “the applicants”) have filed a duly substantiated application before the Authority, in accordance with the Act and the Rules, contending

likelihood of continuation or recurrence of dumping of the subject goods, originating in or exported from China PR and UAE, and consequent injury to the domestic industry and have requested for review and continuation of the existing anti-dumping duties imposed on the imports of the subject goods, originating in or exported from the subject countries.

4. Whereas in view of duly substantiated application filed and in accordance with Section 9A(5) of the Act, read with Rule 23 of the Anti-dumping Rules, the Authority initiated a sunset review investigation vide Notification No. 15/4/2016-DGAD dated 8th July 2016 to review the need for continued imposition of the duties in force in respect of the subject goods, originating in or exported from the subject countries and to examine whether the expiry of such duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry.
5. In exercise of the powers conferred by sub-sections (1) and (5) of section 9A of the Customs Tariff Act and in pursuance of rule 23 of the said rules, the Central Government has extended the existing anti-dumping duty on "Opal Glassware" levied up to 8th August 2017 vide notification No.38/2016-Customs (ADD) dated 4th August 2016, against imports from China PR and UAE.

B. PROCEDURE

6. The procedure described below has been followed with regard to the investigation:
 - i. The Authority received a duly substantiated Sunset Review application from M/s. La Opala RG Limited and M/s. Hopewell Tableware Pvt. Ltd. for review and continuation of the anti-dumping duty in force on imports of Opal Glassware from China PR and UAE.
 - ii. The petitioner submitted prima facie evidence in this regard requesting for review and continuation of the anti-dumping duty in force.
 - iii. The Authority intimated to the Embassy of China and UAE in New Delhi that it has received a petition from the domestic industry to initiate sunset review investigation against imports of the subject goods originating in or exported from the subject countries.
 - iv. The Authority, on the basis of prima facie evidence submitted by the petitioner to justify initiation of the investigation, initiated sunset review investigation against imports of the subject goods originating in or exported from China PR and UAE vide initiation notification dated 8th July 2016.
 - v. The Authority sent copy of the initiation notification dated 8th July 2016 to the embassies of the subject countries in India, known exporters from the subject countries, known importers and other interested parties, as per the addresses made available by the applicants and requested them to make their views known in writing within 40 days of the initiation notification.
 - vi. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters and to the Embassies of China PR and UAE in India in accordance with Rule 6(3) of the Rules supra.

- vii. The known interested parties were requested to file questionnaire responses and make their views known in writing within the prescribed time limit. Copies of the letter and questionnaires sent to the exporters were also sent to embassies of the subject countries along with a list of known exporters/producers, with a request to advise the exporters/producers from the subject countries to respond within the prescribed time.
- viii. The Embassies of China PR and UAE in India were informed about the initiation of the sunset review investigation in accordance with Rule 6(2) of the Rules with a request to advise the exporters/producers from China PR and UAE to respond to the questionnaire within prescribed time limit. A copy of the letter and questionnaire sent to the exporters was also sent to the Embassies of China PR and UAE along with the names and addresses of the known subject producers/exporters.
- ix. The Authority sent exporter's questionnaires to elicit relevant information to the following known producers/exporters in China and UAE in accordance with Rule 6(4) of the Rules:
- a) Arc International Middle East, LLC, UAE
 - b) Sanghai Family Industrial Development Co. Ltd., China
 - c) Wenzhou Huishunda Industrial Co. Ltd., China
 - d) Zhejiang Chengtai, China
 - e) Shenzhen Guanagtong Co. Ltd., China
 - f) Xianning Huimeida Industry & Trade Co. Ltd., China
 - g) Shaoxing Jielong Glassware Co. Ltd., China
 - h) Anhui Deli Glassware Co. Ltd., China
 - i) Yiwn City Longfei Imports and Exports Co. Ltd., China
 - j) Wenzhou Cathylin International Trade Co. Ltd., China
 - k) Anhui Sunhere, China
- x. In response to the initiation of the subject investigation, none of the exporters/producers from the subject countries has responded by filing questionnaire response.
- xi. The Authority sent Importer's Questionnaires to the following known importers/users/associations of subject goods in India calling for necessary information in accordance with the 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., Noida
 - h) Laxmi Crockery Pune Pvt. Ltd., Pune
 - i) Seven Seas Corporation, Thane
 - j) Vishal Retail Ltd., New Delhi
 - k) Siddharth Enterprises, Bharuch

- l) Rudra International, New Delhi
- m) Raj Agencies, Pune
- n) Hamilton House wares Pvt. Ltd., Mumbai
- o) K.P. International, New Delhi
- p) Trade Trekkers, New Delhi
- q) W.K.C Glassware Pvt. Ltd., New Delhi

- xii. Submissions were made by the Ministry of Economy, filed by the Embassy of UAE.
- xiii. In response to the above notification, none of the importers/ consumers has responded by filing questionnaire response.
- xiv. Exporters, producers and other interested parties who have not responded to the Authority, nor supplied information relevant to this investigation, have been treated as non-cooperating interested parties.
- xv. The Authority held an oral hearing on 15th May, 2017 to provide an opportunity to the interested parties to present relevant information orally in accordance to Rule 6 (6).
- xvi. The parties who presented their views in the oral hearing were advised to file written submissions of the views expressed orally. The Authority has considered submissions received from the parties appropriately.
- xvii. Additional information was sought from the applicants and other interested parties to the extent deemed necessary.
- xviii. Directorate General of Commercial Intelligence and Statistics (DGCI&S) data on details of imports of subject goods for the past three years, including the period of investigation, was relied upon for computation of the volume & value of imports and injury analysis.
- xix. Optimum cost of production and cost to make & sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) was worked out so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to Domestic Industry. The NIP has been determined by the Authority in terms of the principles laid down under Annexure III to the Anti-Dumping Rules.
- xx. The period of investigation for the purpose of the present review is April 2015 – March 2016 and the injury analysis has been done for the period 2012-13, 2013-14, 2014-15 and Period of Investigation.
- xxi. The submissions made by the interested parties during the course of this investigation have been considered by the Authority, wherever found relevant, in this finding.
- xxii. Verification to the extent deemed necessary was carried out in respect of the information & data submitted by the domestic industry.
- xxiii. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. The Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.

- xxiv. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has considered such parties as non-cooperative and recorded the findings on the basis of the facts available.
- xxv. The Authority issued a disclosure statement under Rule 16 on 16th June, 2017 and provided an opportunity to give comments to the disclosure statement till 23rd June, 2017.
- xxvi. *** represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
- xxvii. The average exchange rate of 1US\$ = Rs 65.91 prevailing during the POI has been adopted by the Authority in this finding.

C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

Submissions made by the Domestic Industry

- 7. The following submissions have been made by the domestic industry with regard to scope of the Product under Consideration:
 - i. The product under consideration in the present investigation is Opal Glassware of all types (hereinafter referred as subject goods). Opal Glassware is made from Opal Glass, which 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.
 - ii. The product under consideration is used for general eating, tea, coffee serving, pudding and soups serving, and serving snacks etc.
 - iii. The goods produced by the petitioners are technically and commercially substitutable with goods imported from the subject countries. The consumers are using the two interchangeably.
 - iv. Present petition is for review, enhancement and continuation of anti-dumping duty in force and the issue of scope of product under consideration and like article has been decided by the Designated Authority in the original investigation.

Submissions made by the other Interested Parties

- 8. None of the interested parties have made submissions with regard to scope of the product under consideration.

Examination by the Authority

- 9. The Authority notes that the product under consideration in the present investigation is Opal Glassware of all types (hereinafter referred as subject goods). Under the Customs Tariff Act, the product has been described as glassware (in general) of a kind used for table, kitchen, toilet,

office, indoor decoration or similar purposes. The scope of the present investigation is however restricted to opal glassware of a kind used for table, kitchen and office.

10. Opal Glassware is made from Opal Glass, which 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 eating, tea, coffee serving, pudding and soups serving, and serving snacks etc.
11. The Authority holds that the product under consideration in the present sunset review investigation is “Opal glassware”. The scope of the product under consideration in the present investigation remains the same as the scope of the product under consideration in the final findings earlier notified as follows:

“17. The Authority has examined the submissions of the interested parties in regard to product under consideration. The Authority has also conducted on the spot verification at the premises of the domestic industry as well as of the responding exporter from China PR. The Authority, in this regard, proposes to hold as follows:

- a. The product under consideration in the present investigation is Opal Glassware of all types. Under the Customs Tariff Act, the product has been described as glassware (in general) of a kind used for table, kitchen, toilet, office, indoor decoration or similar purposes. The scope of the present investigation is however restricted to opal glassware of a kind used for table, kitchen and office.*
- b. Opal glasswares are produced through two technologies, i.e., spin (Centrifugal Process) and press technology (Dye Casting Process). The press technology is old and the spin technology is new. The products manufactured through the former process are lighter in weight and superior in quality and appearance compared to those manufactured from the latter process. The difference in the two technologies however does not render the two products dislike products. The goods produced through two technologies are opal glasswares and have the same usage.*
- c. Domestic industry has argued that the import data cannot distinguish the associated technology involved in production of the product. On the spot investigation conducted at the premises of the responding producer/ exporter from China PR showed that the company had produced and exported to India subject goods manufactured through both the technologies during the POI. The domestic industry is also producing goods using both the technologies. Even though the producers in UAE have not fully cooperated with the Designated Authority, the available evidence shows that the UAE producer is also producing the goods using both the technologies.*
- d. Since goods are being produced using both the technologies in India and subject countries and since difference in the products produced through two technologies does not render them different articles, the Authority notes that the scope of the product under consideration includes opal glasswares produced through both the technologies. As regards significant difference in the associated costs and prices, the Authority notes*

that the same is relevant only for the purpose of fair comparison for determining dumping margin and injury margin.

- e. *The Authority notes that different kinds of glasswares are classifiable under Custom Sub Heading No. 7013. However, the scope of the product under consideration for the purpose of present investigation is limited to ‘opal glasswares’ of a kind used for table, kitchen, office or similar purposes. It is clarified that all other products falling under Custom Sub Heading No. 7013 are beyond the scope of the product under consideration in the present case.”*

12. Opal Glassware is classified under Chapter 70 of Custom Tariff Act, 1975 under the sub-heading 7013. However, the customs classification is indicative only and is in no way binding on the scope of the present investigation.
13. Anti-dumping duties are in force on imports of Opal Glassware on the basis of recommendations earlier made by the Authority. The Authority notes that the petition is for review and continuation of the anti-dumping duty in force and the issue of like article has been already dealt with in the original investigation.
14. Rule 2(d) with regard to like article 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;

15. The domestic industry has claimed that the subject goods produced by the domestic industry are identical to the product under consideration being imported into India. The domestic industry has also claimed that there is no known difference in domestic industry's product and product under consideration exported from the subject countries and the two are comparable in terms of characteristics 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 petitioners and those exported from the subject countries and both are technically and commercially substitutable.
16. The Authority notes from the information available on record that the product under consideration produced by the domestic industry is like article to the goods imported from the subject countries. Product under consideration produced by the domestic industry and imported from the subject countries are comparable in terms of physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. It is further noted that the Designated Authority has examined the issue of product under consideration and like article in the previous investigation, which is relied upon. The goods produced by the domestic industry and imported from the subject countries are held as "like article" in terms of the Rules. The

two are technically and commercially substitutable. The consumers are using the two interchangeably and are like article within the meaning and scope of Rule 2(d) of the Anti-Dumping Rules.

D. SCOPE OF DOMESTIC INDUSTRY AND STANDING

Submissions made by the Domestic Industry

17. The following submissions have been made by the domestic industry with regard to the scope of the domestic industry and standing:

- i. There were only two producers of the product under consideration in the country at the time of filing petition. The present sunset review application is filed by both the Indian producers, M/s La Opala RG Limited and M/s. Hopewell Tableware Pvt. Ltd.
- ii. M/s Cello Industries has started commercial production of the subject goods only recently and there was no manufacturing activity during the period of investigation. Therefore, M/s Cello Industries cannot be considered in the present investigation.
- iii. The production of the petitioners constitutes 100% of the Indian production in the POI.
- iv. Petitioners have not imported the subject goods nor are they related to any exporter of the subject goods in the subject countries or any importer in India. Therefore, the petitioners satisfy the requirements of Rule 2(b) and Rule 5(3) of the AD Rules and have the standing to file the present petition and the petitioner companies constitute "Domestic Industry" within the meaning of the Rules.

Submissions by producers/exporters/importers/other interested parties

18. None of the interested parties have made submissions with regard to the scope of the domestic industry and standing.

Examination by the Authority

19. Rule 2(b) defines domestic industry as under: -

"(b) "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 Authority notes that there were only two known producers of the product under consideration at the time of initiation of sunset review investigations and in the period of investigation of the present investigations - M/s La Opala RG Limited and M/s. Hopewell Tableware Pvt. Ltd. Both the producers are petitioners in the present case. Petitioners have not

imported the subject goods from the subject countries, nor are they related to any exporter or importer of the subject goods.

21. Therefore, the petitioners satisfy the requirement of standing under the Rules and constitute domestic industry as the production of the petitioner companies constitutes 100% of Indian production. The Authority, therefore, holds M/s La Opala RG Limited and M/s. Hopewell Tableware Pvt. Ltd. as constituting domestic industry within the meaning of Rule 2(b) and Rule 5 of the Rules supra.

E. NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN

Normal Value

Submissions made by the Domestic Industry

22. The following submissions have been made by the domestic industry with regard to MET, normal value, export price and dumping margin during the course of the investigation:
- i. One of the provisions of Accession protocol has expired on 11th December, 2016. The Designated Authority should proceed with present investigation considering Chinese producers as producers operating in non-market economy conditions due to reasons given below.
 - ii. The investigation period considered by the Authority in the present case is April 2015 to March 2016 (12 months). The injury investigation period has been considered as the period 2012-13, 2013-14, 2014-15 and POI.
 - iii. The purpose of fixation of POI is to consider a period when the existence of dumping causing injury is claimed and established. The date of determination is not relevant to the moot question of dumping causing injury to the domestic industry. Since the factum of dumping causing injury to the domestic industry is established based on investigation period, the conditions prevalent during the investigation period alone should be considered relevant, appropriate and necessary for the purpose.
 - iv. The Chinese producers are required to be treated as non-market economy companies for the reason that the costs and prices in China do not reasonably reflect the market forces. Para 8 to Annexure-I specifies the parameters which should be considered for grant of market economy status. This also implies that unless these conditions are fulfilled/ satisfied, the Chinese costs and prices cannot be adopted.
 - v. The consideration of market economy status is based on parameters prevailing during investigation period. Since the reason for rejection of Chinese costs and prices is distortion in the costs and prices in China due to the factors listed in Para 8 to Annexure-I, petitioner submits that it is the investigation period that is relevant to decide consideration of Chinese producers as market economy companies.
 - vi. Since Chinese companies have been denied market economy status for the reasons mentioned in Para 8 of Annexure-I till December, 2016, petitioner submits that the Chinese producers are required to be treated as non-market economy companies till

such time the investigation period includes the period specified in Accession Treaty protocol.

- vii. In the context of rule 2(b), it is well established legal position that the imports by a domestic producer or its relationship with an exporter or importer are examined with reference to the investigation period. If POI alone is relevant for standing purposes, POI alone should be relevant for normal value determination.
- viii. Chinese producers are required to be treated as companies operating under non-market economy environment and the Authority may proceed to determine the normal value on the basis of Para 7 of Annexure-I.
- ix. None of the producers/ exporters from the subject countries has filed questionnaire responses.
- x. Petitioners have claimed determination of normal value in China on the basis of the price for the like product payable in UAE. Petitioners submit that UAE is an appropriate market economy third country. Price of the product under consideration in UAE is available on the website. The petitioners have considered price of the product in UAE after adjusting for supplier distribution channel expenses and selling and distribution expenses incurred by the producer to derive the ex-factory price in UAE.
- xi. Alternatively, the petitioners have claimed constructed normal value in China on the basis of cost of production in India, duly adjusted for SGA expenses and profits.
- xii. Alternatively, the petitioners have claimed determination of normal value in UAE on constructed cost basis, considering the cost of production in India.
- xiii. The export price has been adjusted for expenses such as Ocean freight, Marine insurance, Commission, Port expenses, Inland freight expenses, Bank charges and VAT adjustment (for China only) to arrive at the net export price.
- xiv. Dumping margins claimed on the above basis are significant and above de minimis levels for both the subject countries.
- xv. Considering the production capacities available with the producers in China and their high export orientation, dumping would continue and even intensify in the event of cessation of anti-dumping duty.

Submissions by producers/exporters/importers/other interested parties

23. None of the interested parties have made submissions with regard to normal value, export price and dumping margin.

Examination by the Authority

24. 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);
25. The Authority sent questionnaires to the known exporters from the subject countries, and importers in India, advising them to provide information in the form and manner prescribed. However, none of the producers/exporters from the subject countries and importers from India has cooperated in this investigation by filing their Questionnaires' responses. Therefore, the Authority has proceeded on the basis of best available information, as per Rule 6 (8) of AD Rules.

NORMAL VALUE IN UAE

26. None of the producers/ exporters in UAE have responded or submitted exporter's questionnaire responses. However, the domestic industry has submitted evidence of selling price in UAE and claimed normal value on this basis after adjusting retailer's margin, local taxes and other expenses incurred by the producer in UAE. In the absence of any verifiable information, the Authority has adopted the constructed normal value for all producers/ exporters in UAE on the basis of best information available, as per Rule 6 (8) and its consistent practice in such cases.

EXPORT PRICE IN UAE

27. None of the producers/ exporters from UAE has responded to the present investigations. In view of the same, the Authority has determined the export price of the subject goods as per facts available in terms of Rule 6 (8) of the Anti-dumping rules. Accordingly, the weighted average net export price at ex-factory level, in respect of all exporters from UAE, after making due adjustments for ocean freight, marine insurance (**% of CIF), commission (**% of FOB), bank charges (**% of FOB), port expenses (**% of FOB) and inland freight charges (**% of FOB) to an extent of ** US\$/KG, ** US\$/KG, ** US\$/KG, ** US\$/KG, ** US\$/KG and ** US\$/KG respectively has been determined as ** US\$/KG.

NORMAL VALUE IN CHINA PR

Examination of Market economy claims

28. The Authority notes that none of the exporter/producers from China PR have responded and filed questionnaire response. In view of the above position and in absence of rebuttal of non-market economy presumption by any Chinese exporting company, the Authority has constructed the normal value on the basis of best available information as per Rule 6 (8) of AD Rules.

Normal value determination for China PR

29. Normal value has been constructed on the basis of cost of production of one of the petitioners, considering the best consumption norms for raw material and utilities, conversion cost, selling, administrative and finance expenses and after allowing for return as per DGAD’s practice.

EXPORT PRICE IN CHINA

30. None of the producers/ exporters from China PR has responded to the present investigations. In view of the same, the Authority has determined the export price of the subject goods as per facts available in terms of Rule 6 (8) of the Anti-dumping rules. Accordingly, the weighted average net export price at ex-factory level, in respect of all exporters from China PR, after making due adjustments for ocean freight, marine insurance (***% of CIF), commission (***% of FOB), bank charges (***% of FOB), port expenses (***% of FOB), VAT (***% of FOB) and inland freight charges (***% of FOB) to an extent of *** US\$/KG, *** US\$/KG and *** US\$/KG respectively has been determined as *** US\$/KG.

DUMPING MARGIN DETERMINATION FOR PRODUCERS AND EXPORTERS IN UAE AND CHINA

31. The net export prices from the subject countries to India have been compared with the normal value to determine dumping margin. The dumping margin during the POI for all exporters/producers from the subject countries has been determined as provided in the table below:

Particular	Unit	China	UAE
Constructed Normal Value	US\$/Kg	***	***
Net Export Price	US\$/Kg	***	***
Dumping Margin	US\$/Kg	***	***
Dumping Margin	%	***	***
Dumping Margin	Range	30-40	0-10

F. METHODOLOGY FOR INJURY DETERMINATION AND EXAMINATION OF INJURY AND CAUSAL LINK

F.1 SUBMISSIONS MADE BY THE DOMESTIC INDUSTRY

32. The following submissions have been made by the domestic industry in this regard:

- a) The demand of the product in the Country shows a positive movement throughout the injury period.
- b) Imports from China declined till 2014-15 and then increased significantly in POI, both in absolute terms and in relation to production and consumption in India.
- c) Though imports from UAE have declined over the injury period, imports from EU have increased. The producer in UAE is an affiliate of a producer in Europe. Thus, the group has changed its strategy and has started supplying from Europe and reduced supplies from UAE. Since imports from Europe are also at dumped prices, petitioners have filed a petition in respect of imports from Europe (and other countries), which is under consideration of the Authority for initiation of investigations. Under the circumstances, if anti-dumping duty on UAE is allowed to expire, it shall imply dumping shifting back to UAE. The low volume of imports from UAE, therefore, should not be construed as a change in behavior and no likelihood of intensified dumping from UAE.
- d) Dumped imports are significantly undercutting the prices of the domestic industry.
- e) The landed price of imports is not only below selling price of the domestic industry but also below cost of production and non-injurious price of the domestic industry.
- f) Both dumping margin and injury margin in the current POI are positive and significant.
- g) Dumped imports from China and UAE are likely to suppress the prices of the domestic industry and prevent price increases in the absence of anti-dumping duty.
- h) Even when there is overall improvement in production and sales volumes of the domestic industry as a result of anti-dumping duty in force; the increased dumping in the POI from China on one hand and fresh dumping from new sources (Europe and Iran) has adversely impacted the performance of the domestic industry in respect of various volume parameters. Performance of the domestic industry was improving till 2014-15. The performance has almost deteriorated in the POI with the decline in capacity utilization and sales volume.
- i) Inventories with the domestic industry have increased significantly and very sharply in the POI on month by month basis.
- j) The domestic industry has requested the Designated Authority to protect the efforts of the domestic industry to create demand and prevent the dumping of the product under consideration in the Country. It would otherwise mean that the domestic industry created demand for the product under consideration for the foreign producers. While the domestic industry was protected from dumping by the anti-dumping duty to some extent, the fact remains that the quantum of anti-dumping duty is very low and it is established that the Chinese producers are absorbing the anti-dumping duty to some extent. The calculations of injury margin clearly show that the injury margin in the present case is higher than the existing ADD on the cooperating exporter at the time of original investigation.
- k) Performance of the domestic industry in terms of profits, cash profits and return on investment has remained stable. However, performance declined in respect of return on investment in the POI. Despite significant additions to capacities and capital employed, return on investment declined in the POI.
- l) Growth of the domestic industry on year by year basis shows decline in the POI in terms of production, sales, capacity utilization and return on investment.

- m) Product under consideration continues to be exported to India at dumped prices from the subject countries.
- n) The import prices are materially below selling price of the domestic industry. The consumers would, therefore, switch to imported product in the event of cessation of anti-dumping duty which will lead to significant increase in imports of the product.
- o) There is likelihood of intensified imports in case existing anti-dumping duties cease.
- p) The domestic industry is likely to suffer injury in the event of cessation of anti-dumping duty.
- q) The anti-dumping duty is required to be continued.

F.2 Submissions made by the exporters, importers and Other Interested Parties/ other Parties

33. The Ministry of Economy, UAE has made the following submissions with regard to injury and causal link:
- a) The volume of imports from UAE is not only decreasing but also negligible. The Authority is obliged under Article 11.3 to make a determination of likelihood of dumping and injury based on “positive evidence” resting on sufficient factual basis and not merely assumptions and conjecture.
 - b) Cumulative assessment of the effects of imports from subject countries is inappropriate.
 - c) The alleged injury has been caused by increased volume of imports from other countries not subject to anti-dumping duty. There is no causal link between the expiry of the duty in respect of the UAE and the recurrence or continuation of dumping and injury.

F.3 Examination by the Authority

34. In consideration of the various submissions made by the interested parties in this regard, the Authority has to examine the current injury, if any, to the domestic industry before proceeding to examine the likelihood aspects of dumping and injury on account of imports from the subject country.
35. 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.

36. As regards the impact of the dumped imports on the domestic industry Para (iv) of Annexure-II of the Anti-dumping 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. For the examination of the impact of the dumped imports on the domestic industry in India, indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, stock, profitability, net sales realization, the magnitude and margin of dumping, etc. have been considered in accordance with Annexure II of the rules supra.

38. According to Section 9A (5) of the Customs Tariff Act, anti-dumping duty imposed shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition, provided that if the Central Government, in a review, is of the opinion that the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury, it may, from time to time, extend the period of such imposition for a further period of five years and such further period shall commence from the date of order of such extension.

39. The present investigation is a sunset review of anti-dumping duties in force. Rule 23 provides that provisions of Rule 11 shall apply, mutatis mutandis in case of a review as well. The Authority has, therefore, determined injury to the domestic industry considering, mutatis mutandis, the provisions of Rule 11 read with Annexure II. Further, since anti-dumping duties are in force on imports of the product under consideration, the Authority considers whether the existing anti-dumping duties on the imports of subject goods from the subject countries are required to be considered while examining injury to the domestic industry. The Authority has examined whether the existing antidumping measure is sufficient or not to counteract the dumping which is causing injury.

40. For the purpose of current injury analysis, the Authority has examined the volume and price effects of dumped imports of the subject goods on the domestic industry and its effect on the prices and profitability of the domestic industry to examine the existence of injury and causal links between the dumping and injury, if any. The Authority has examined injury to the domestic industry by considering information relating to M/s La Opala RG Limited and M/s. Hopewell Tableware Pvt. Ltd. constituting domestic industry under the Rules. Accordingly, the volume and price effect of dumped imports have been examined as follows:

I. Volume Effect of dumped imports and Impact on domestic Industry

a) Demand and market share

41. The Authority has considered the transaction-wise import data provided by DGCI&S for the assessment of volume and value of imports from the subject countries and other countries. Demand for the product under consideration has been determined as the imports of the product under consideration into India from all countries and sales of all domestic producers in India.

Particulars	UOM	2012-13	2013-14	2014-15	POI
Imports - China	MT	424	293	206	394
Imports - UAE	MT	273	179	103	9
Imports - Subject countries	MT	697	473	309	403
Imports - Other Countries	MT	840	608	950	1,056
Total Imports	MT	1,538	1,080	1,259	1,459
Sales - Domestic industry	MT	***	***	***	***
Demand	MT	***	***	***	***
<i>Trend</i>		<i>100</i>	<i>113</i>	<i>186</i>	<i>179</i>

42. The Authority notes that demand for the subject goods has shown consistent increase over the injury period. However, the demand shows some decline in the POI.

43. The market share in demand of the domestic industry and imports from the subject countries areas under:

Market Share	UOM	2012-13	2013-14	2014-15	POI
China	%	***	***	***	***
UAE	%	***	***	***	***
Subject countries	%	***	***	***	***
Other Countries	%	***	***	***	***
Domestic industry	%	***	***	***	***

44. The above data indicates that the market share of the domestic industry has increased up to 2014-15 and then declined in the POI. The market share of imports from China declined up to 2014-15 and then increased in the POI, whereas the market share of imports from UAE declined over the injury period and was negligible in the POI. The market share of all other countries declined in 2013-14, remained at the same level in 2014-15 and then increased again in the POI.

45. The Ministry of Economy, UAE, in their submissions has claimed that the imports from UAE have declined over the injury period and should not be cumulatively assessed with imports from China. They have further alleged that imports from other countries are causing injury to the domestic industry in India.

46. The petitioners, on the other hand, have alleged that the producer in UAE is an affiliate of a producer in Europe and that the group has changed its strategy and has started supplying from Europe having reduced supplies from UAE. The petitioners have filed a petition in respect of imports from Europe (and other countries). Under the circumstances, if anti-dumping duty on

UAE is allowed to expire, it shall imply dumping shifting back to UAE. The low volume of imports from UAE, therefore, is not being construed as a change in behavior and there being no likelihood of intensified dumping from UAE. The Authority however notes that petition regarding imports from any of the non-subject country can be filed by the domestic industry as per Rules.

b) Import volumes and share of subject country:

47. With regard to volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in dumped imports either in absolute terms or relative to production or consumption in India. Annexure II (ii) of the anti-dumping rules provides as under:

“While examining the volume of dumped imports, the said Authority shall consider whether there has been significant increase in the dumped imports either in absolute terms or relative in production or consumption in India”

48. The import volumes for the injury period are as under:

Particulars	UOM	2012-13	2013-14	2014-15	POI
Imports - China	MT	424	293	206	394
Imports - UAE	MT	273	179	103	9
Imports - Subject countries	MT	697	473	309	403
Imports - Other Countries	MT	840	608	950	1,056
Total Imports	MT	1,538	1,080	1,259	1,459
Imports from China in relation to					
➤ Total Imports	%	28%	27%	16%	27%
➤ Production	%	***	***	***	***
➤ Consumption	%	***	***	***	***
Imports from UAE in relation to					
➤ Total Imports	%	18%	17%	8%	1%
➤ Production	%	***	***	***	***
➤ Consumption	%	***	***	***	***
Imports from Subject countries in relation to					
➤ Total Imports	%	45%	44%	25%	28%
➤ Production	%	***	***	***	***
➤ Consumption	%	***	***	***	***

49. From the above, the Authority notes that:

- a) Imports from China declined up to 2014-15 and then increased in the POI.
- b) Imports from UAE have declined over the injury period.
- c) Imports from China in relation to total imports, consumption and production show the same trend, that is, declined up to 2014-15 and then increased in the POI.

- d) Imports from UAE in relation to total imports, consumption and production show the same trend, that is, declined over the injury period.
- e) Imports from other than non-subject countries have increased significantly in the POI.

II. Price effect of dumped imports and impact on domestic industry

50. The impact on the prices of the domestic industry on account of imports of the subject goods from the subject countries have been examined with reference to price undercutting, price underselling, price suppression and price depression. 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 landed value of imports from the subject countries. A comparison for subject goods during the period of investigation was made between the landed value of the dumped imports and the domestic selling price in the domestic market. In determining the net sales realization of the domestic industry, taxes, rebates, discounts and commission incurred by the domestic industry have been adjusted. The price underselling is an important indicator of assessment of injury; thus, the Authority has worked out a non-injurious price and compared the same with the landed value of imports to arrive at the extent of price underselling. The non-injurious price has been evaluated for the domestic industry in terms of Annexure III of the Anti-dumping Rules. Various parameters are as under:

a) Price Undercutting

51. The Authority has made price undercutting analysis with and without anti-dumping duty as below:

Particulars	UOM	2012-13	2013-14	2014-15	POI
Net Sales Realization	Rs./Kg	***	***	***	***
Without ADD					
Landed Price					
China	Rs./Kg	65.55	61.42	51.27	88.52
UAE	Rs./Kg	95.89	74.12	56.96	107.56
Subject countries	Rs./Kg	77.43	66.24	53.16	88.96
Price Undercutting					
China	Rs./Kg	***	***	***	***
UAE	Rs./Kg	***	***	***	***
Subject countries	Rs./Kg	***	***	***	***
Price Undercutting					
China	%	***	***	***	***
UAE	%	***	***	***	***
Subject countries	%	***	***	***	***
Price Undercutting					
China	Range	50-70%	50-70%	50-70%	30-50%
UAE	Range	30-50%	40-60%	50-70%	20-40%
Subject countries	Range	40-60%	50-70%	50-70%	30-50%

Particulars	UOM	2012-13	2013-14	2014-15	POI
With ADD					
Landed Price					
China	Rs./Kg	90.03	84.36	70.42	121.59
UAE	Rs./Kg	127.51	98.55	75.74	143.02
Subject countries	Rs./Kg	104.71	89.75	72.19	122.08
Price Undercutting					
China	Rs./Kg	***	***	***	***
UAE	Rs./Kg	***	***	***	***
Subject countries	Rs./Kg	***	***	***	***
Price Undercutting					
China	%	***	***	***	***
UAE	%	***	***	***	***
Subject countries	%	***	***	***	***
Price Undercutting					
China	Range	40-50%	40-50%	45-55%	15-25%
UAE	Range	15-25%	30-40%	45-55%	0-10%
Subject countries	Range	30-40%	35-45%	45-55%	15-25%

52. The above data indicates that price undercutting, both, with and without taking into account the anti-dumping duty in force, is significant. It is noted after the analysis that the prices of subject goods from the subject countries are undercutting the prices of domestic industry during the injury period.

b) Price Underselling

53. The price underselling is an important indicator of assessment of injury; thus, the Authority has worked out non-injurious prices of the subject goods and compared the same with the landed values of the imported goods to arrive at the extent of price underselling. For examining the underselling effects of the dumped imports the landed value of imports, without taking into account the anti-dumping duty in force, has been compared with the Non-Injurious Price determined.

Particular	China	UAE
	Rs/KG	Rs/KG
Non-Injurious Price (NIP)	***	***
Landed Price	***	***
Price Underselling	***	***
Price Underselling %	***	***
Price Underselling % (Range)	20-30	0-10

54. The Authority notes that during the POI, the price underselling was also positive for both the subject countries.

c) Price suppression and depression effects of the dumped imports:

55. To examine whether the domestic prices are suppressed or depressed due to the presence of dumped imports from the subject countries; the trend of weighted average sales realization of the domestic industry has been compared with the cost of sales and the landed values of imports from the subject countries.

Particulars	UOM	2012-13	2013-14	2014-15	POI
Selling Price	Rs./Kg	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	97	92	96
Cost of Sales	Rs./Kg	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	96	92	99
Landed Value- China PR	Rs./Kg	65.55	61.42	51.27	88.52
<i>Trend</i>	<i>Indexed</i>	100	94	78	135
Landed Value - UAE	Rs./Kg	95.89	74.12	56.96	107.56
<i>Trend</i>	<i>Indexed</i>	100	77	59	112
Landed Value - Subject Countries	Rs./Kg	77.43	66.24	53.16	88.96
<i>Trend</i>	<i>Indexed</i>	100	86	69	115

56. From the above information, the Authority notes that both, the cost of sales and the selling price of the domestic industry have declined up to 2014-15 and then increased in the POI. Landed price of imports from China and UAE also declined up to 2014-15 and then increased in the POI. However, the landed price of imports from both the subject countries is below the cost of production and as well as NIP of the domestic industry. It is noted that the imports from the subject countries were depressing the prices of the product under consideration in the market. The selling price declined more than the decline in the costs. The petitioners have alleged that cessation of anti-dumping duty would cause significant depressing and suppressing effect on the prices of the domestic industry in the market.

III. Examination of Economic Parameters relating to Domestic Industry

57. Annexure II to the Anti-dumping Rules requires that a determination of injury shall involve an objective examination of the consequent impact of these imports on domestic producers of such products. The 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.

a) Capacity, production, capacity utilization and sales

58. Performance of the domestic industry with regard to production, sales, capacity and capacity utilization are as follows:

Particulars	UOM	2012-13	2013-14	2014-15	POI
Capacity	MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>155</i>	<i>195</i>	<i>211</i>
Production	MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>120</i>	<i>175</i>	<i>206</i>
Capacity Utilization	%	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>77</i>	<i>90</i>	<i>98</i>
Domestic Sales	MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>124</i>	<i>211</i>	<i>199</i>
Demand	MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>113</i>	<i>186</i>	<i>179</i>

59. It is seen from the above table that the domestic industry enhanced capacities over the injury period. The demand for the product under consideration in the Country has also increased significantly over the injury period. The production of the domestic industry has increased over the injury period which indicates the positive effect of anti-dumping duty imposed. However, the domestic industry has not been able to utilize its capacity to the fullest extent. In fact, the domestic industry was almost not able to increase its production in the POI in consonance with enhancement in capacities. Resultantly, the capacity utilization of the domestic industry has not been optimal. The petitioners have alleged that the domestic industry could have produced and sold more, had there been no increase in dumped imports from subject countries and fresh sources.

60. It is noted that the domestic industry was unable to utilize its capacity to the fullest extent, is not due to new capacities, but due to restricted access to market demand, due to imports from subject countries.

61. Domestic industry's sales volumes have increased over the injury period. However, the sales volume has declined slightly in the POI as compared to the immediately preceding year, 2014-15, despite increase in demand and capacities. The petitioners have alleged that decline in their sales volumes in the POI is due to increase in imports from China and fresh dumping sources and led to restrictions of production.

b) Inventories

62. From the information given below, the Authority notes that the level of inventory with the domestic industry has increased during period of investigation.

Particulars	UOM	2012-13	2013-14	2014-15	POI
Opening Stock	MT	***	***	***	***
Closing Stock	MT	***	***	***	***
Average Stock	MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>156</i>	<i>178</i>	<i>232</i>

63. Petitioners have claimed that even within the POI, the inventories have increased sharply on month by month basis. It is noted that the level of inventories has fluctuated within the POI and increased significantly in the last three months of the POI.

Month	Closing Inventory - MT	Indexed
Apr-15	***	100
May-15	***	100
Jun-15	***	96
Jul-15	***	100
Aug-15	***	101
Sep-15	***	97
Oct-15	***	87
Nov-15	***	92
Dec-15	***	103
Jan-16	***	123
Feb-16	***	139
Mar-16	***	148

c) Profits, return on investment and cash flow

64. Performance of the domestic industry with regard to profits, return on investment and cash flow over the injury period was as follows:

Particulars	UOM	2012-13	2013-14	2014-15	POI
Cost Of Sales	Rs/Kg	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>96</i>	<i>92</i>	<i>99</i>
Selling Price	Rs/Kg	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>97</i>	<i>92</i>	<i>96</i>
Profit/Loss - Per unit	Rs/Kg	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>106</i>	<i>89</i>	<i>74</i>
Profit/Loss	Rs Lacs	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>131</i>	<i>187</i>	<i>148</i>
Profit before Interest - Per Unit	Rs/Kg	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>121</i>	<i>102</i>	<i>90</i>
Profit before Interest	Rs Lacs	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>150</i>	<i>215</i>	<i>180</i>
Cash Profit - Per Unit	Rs/Kg	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>112</i>	<i>90</i>	<i>82</i>
Cash Profit	Rs Lacs	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>139</i>	<i>190</i>	<i>163</i>
Return on Investment	%	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>72</i>	<i>89</i>	<i>66</i>

65. From the above information, the Authority notes that selling price and cost of production of the domestic industry, both, have declined till 2014-15 and then increased in the POI. The

domestic industry was earning profits over the injury period. Profit before interest, cash profit and return on investment were positive in the injury period. While per unit profit, per unit profit before interest, per unit cash profit and return on investment were positive over the investigation period, these parameters declined over the injury period due to the price depression caused by the dumped imports. It is further noted that the return on investment had declined in the POI despite significant additions to capacities and capital employed, as increase in profits was not in proportion to increase in capital employed.

66. The Authority notes that price parameters of the domestic industry remained positive because of anti-dumping duty in force. However, continued presence of dumped imports in the Indian market from the subject countries and fresh sources resulted in decline in per unit profits, per unit cash profits and return on capital employed.

d) Employment, wages and productivity

67. From the information below, the Authority notes that the employment position of the domestic industry and wages paid have increased during period of investigation as compared to base year. Productivity in terms of production per day and production per employee has increased over the period. The petitioners have explained that one of the petitioners, Hopewell Tableware, commenced production in 2013-14. Therefore, number of employees has increased significantly in this period and productivity is low.

Particulars	UOM	2012-13	2013-14	2014-15	POI
Employees	No	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>172</i>	<i>180</i>	<i>181</i>
Salary & Wages	Rs Lacs	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>151</i>	<i>210</i>	<i>257</i>
Wages per unit	Rs./Kg	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>126</i>	<i>120</i>	<i>125</i>
Productivity per Employee	MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>70</i>	<i>97</i>	<i>114</i>
Productivity per Day	MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>120</i>	<i>175</i>	<i>206</i>

e) Magnitude of dumping

68. The Authority notes that the dumping margin of the imports of the subject goods from both the subject countries is not only positive but also significant.

f) Growth

69. The Authority notes that growth of the domestic industry in respect of sales volume, capacity utilization, market share, return on capital employed were negative in the POI.

Growth % (Year by year)	Unit	2012-13	2013-14	2014-15	POI
Production	MT	-	***	***	***
Domestic Sales	MT	-	***	***	***
Profit/ Loss per unit	Rs./Kg	-	***	***	***
Return On Investment	%	-	***	***	***
Market Share – DI	%	-	***	***	***

g) Ability to raise Capital Investment

70. The Authority notes that the domestic industry has been able to raise capital investments, given the anti-dumping duty earlier imposed by the Govt. Since the furnace used in production of the product under consideration has limited life, the lining of the furnace is required to be changed every two years to keep the furnace viable and vibrant. Petitioners have claimed to have made significant investments in the existing capacity as well.

h) Factors affecting domestic prices

71. Consideration of the import prices from subject countries and other countries, changes in the cost structure, competition in the domestic market, factors other than dumped imports that might be affecting the prices of the domestic industry in the domestic market would show that the landed value of imported material from subject countries and other dumping countries are significantly below the selling price of the domestic industry, causing price undercutting in the Indian market. Average import price from subject countries is lower than the non-injurious price of the domestic industry. The benchmark for the Indian producers' prices is the import prices from the subject countries. Demand for the product has shown significant jump during the injury period and, therefore, cannot be a factor responsible for price suppression.

72. The Authority notes that though capacity, production and market share of Domestic Industry during the period of injury have increased, the capacity utilization has decreased. Profitability of the domestic industry has remained stable. However, per unit profit, per unit profit before interest, per unit cash profit and return on investments have declined. It is noted that the price undercutting is positive for both the subject countries. Further on comparison with NIP, the price underselling is noted to be positive for both the countries.

IV. Conclusion on injury

73. It is thus seen that there has steady and sustained volume of dumped imports from China in absolute terms as compared to immediately preceding year. The imports have remained significant in relation to consumption and production of the product in India. Though the volume of imports from UAE has declined over the injury period, the import prices are low. The petitioners have alleged that these imports have been diverted to European Union. Cessation of anti-dumping duty on imports from UAE would lead to intensified dumping from this source. The dumped imports are undercutting the prices of the domestic industry in the market. Dumped imports have caused significant price underselling. The dumping margin

determined by the Authority is quite significant. With regard to consequent impact of dumped imports on the domestic industry, it is noted that dumped imports from the subject countries have adversely impacted the performance of the domestic industry in respect of inventories and return on investment. Inventories with the domestic industry increased. Further, as a result of significant price undercutting and price underselling; return on investments of the domestic industry deteriorated. The Authority therefore holds that the domestic industry has suffered material injury.

G. Causal Link

74. The Authority examined whether other known factors could have caused injury to the domestic industry as follows:

a) Volume and prices of imports from third countries

75. The Authority notes that during POI, imports of the subject goods from other countries, except European Union and Iran, are either low in volume or at high prices and are not causing injury to the domestic industry. Petition seeking imposition of anti-dumping duty on imports from European Union and Iran is under consideration of the Authority.

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

76. The Authority notes that there is no contraction in the demand during injury period. Demand for the product has increased over the injury period.

c) Developments in technology

77. The Authority notes that none of the interested parties have furnished any evidence to demonstrate significant changes in technology that could have caused injury to the domestic industry.

d) Conditions of competition and trade restrictive practices

78. The Authority notes that the subject goods are freely importable.

e) Export performance of the domestic industry

79. The export performance of the domestic industry is not relevant since price and profitability in the domestic and export market has been segregated by the Authority for the purpose of assessing injury to the domestic industry.

f) Performance of other products

80. Claimed injury to the domestic industry is on account of product under consideration. The petitioner has provided information which pertains only to the product under consideration. Thus, the financial information provided with regard to product under consideration clearly shows the position of the domestic industry with regard to like article produced and sold by the domestic industry.

81. The Authority notes that while the known other factors listed above do not appear to have caused the injury determined, the following parameters show that injury to the domestic industry is caused by the dumped imports in the event of cessation of anti-dumping duty.

- a) The volume of imports of the subject goods from China is quite significant.
- b) Import volume from UAE has declined over the injury period; however, the prices are low.
- c) Imports of the subject goods from both the subject countries are undercutting domestic industry's prices, despite the existence of anti-dumping duties in force.
- d) Further, the landed price of imports is below not only the selling price of the domestic industry but also the cost of production and non-injurious price of the domestic industry. This indicates that should the measures be allowed to expire, dumping will intensify and cause further injury to the domestic industry.
- e) Deterioration in sales volume, capacity utilization and market share of the domestic industry in the POI is a direct consequence of dumped imports.
- f) In case of cessation of anti-dumping duties, the exporters in subject countries shall be able to further capture the market in view of their high production capacities and low export prices.
- g) Thus, cessation of anti-dumping duties is likely to adversely impact market share, domestic sales, production and capacity utilization of the domestic industry.

G.1 Injury and Causation

82. The Authority notes that the volume of dumped imports from China continues to be quite significant, whereas the volume of imports from UAE has declined to quite a low level. However, there is an increase in imports from other fresh sources. With regard to the effect of the dumped imports on prices, there continues to be price undercutting and underselling effect by the dumped imports from subject countries as compared with the price of like product in India. With regard to consequent impact of the dumped imports from the subject countries on the domestic industry, the investigation has shown that performance of the domestic industry has deteriorated in terms of parameters such as profits, cash profits and return on investment. The investigation also shows that the domestic industry has suffered injury from the dumped imports of the subject goods from the subject countries, during POI.

H. Magnitude of Injury and Injury Margin

83. The non-injurious price of the subject goods produced by the domestic industry as determined by the Authority has been compared with the landed value of the exports from the subject

countries for determination of injury margin during POI. The injury margin determined for the subject countries, during POI is as follows:

Country	Unit	China	UAE
Non-Injurious Price	US\$/Kg	***	***
Landed Price	US\$/Kg	***	***
Injury Margin	US\$/Kg	***	***
Injury Margin	%	***	***
Injury Margin	Range	20-30	0-10

84. From the aforesaid information, the Authority notes that during POI, the injury margin in respect of subject countries is positive.

H.1 Material Injury

85. The Authority notes that imports from China have increased in the POI and have remained high despite anti-dumping duty, both in absolute terms and in relation to production/consumption in India. Imports from UAE have declined, however, landed price of imports from both the subject countries are below the selling price of the domestic industry. Imports are undercutting the prices of the domestic industry in the market. The imports could cause depressing and suppressing effect on the prices of the domestic industry in the event of cessation of anti-dumping duties. The import prices have been quite low over the years and resultantly, the performance of the domestic industry has been impacted in terms of profits, return on investments, cash flow and inventories as compared to the base year.

I. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING AND INJURY

I.1 Submissions by the Domestic Industry

86. The domestic industry submitted as under in support of its claim of likelihood of continuation or recurrence of dumping and injury:

- i) Imports made into the domestic market have been made at dumped prices despite imposition of anti-dumping duty.
- ii) Producers in the subject countries with significant disposable capacity and high export intensity establish that in the event of cessation of duties, exports to India may intensify.
- iii) The volume of imports in case of China has remained significant despite imposition of anti-dumping duty. In fact, imports from China increased significantly in the POI.
- iv) Imports from UAE declined and dumping shifted to EU. There are all the probabilities that the volume of imports from UAE would increase in the event of cessation of anti-dumping duty as the UAE producer is an affiliate of the European producer of the subject goods. Exports from UAE have been strategically shifted to Europe to avoid anti-dumping duty. The Govt. of UAE agrees that the injury has shifted to other countries not attracting

ADD. Petition seeking imposition of anti-dumping duty on imports of the subject goods is under consideration of the Authority. The data contained in that petition also shows that these exports are at dumped prices. If anti-dumping duty on imports from UAE is revoked, the situation would reverse. Therefore, low volume of imports from UAE should not be construed as a change in behavior and no likelihood of intensified dumping from UAE.

- v) Petitioners request the Authority to consider continuation of anti-dumping duty on imports from UAE as well as imposition of anti-dumping duty on imports from EU and other sources in order to check alternate channels of dumping.
- vi) None of the exporters from the subject countries have participated in the present investigation.
- vii) Both dumping margin and injury margin in the current POI are positive and high.
- viii) The price undercutting even after prevailing anti-dumping duties is positive.
- ix) The import prices are below selling price of the domestic industry. The consumers may therefore switch to imported product in the event of cessation of anti-dumping duty which may lead to increase in imports of the product. Alternatively, the domestic industry may have to reduce their selling price to compete with dumped imports, driving it even below the cost of sales; leading to price injury.

I.2 Submissions made by the exporters, importers and Other Interested Parties

87. The Ministry of Economy in UAE has claimed that the volume of imports from UAE is not only decreasing but also negligible. In such a case, the Authority is obliged under Article 11.3 to make a determination of likelihood of dumping and injury based on “positive evidence” resting on sufficient factual basis and not merely assumptions and conjecture.

I.3 Examination by the Authority

88. The present investigation is a sunset review of anti-dumping duties imposed on the imports of subject goods from subject countries. Under the Rules, the Authority is required to determine whether continued imposition of antidumping duty is warranted. This also requires examination whether the duty imposed is serving the intended purpose of eliminating injurious dumping.

89. The Authority notes that in the present investigation, there is continuous dumping of the subject goods from the subject countries, causing continued injury to the domestic industry, which ipso facto indicates likelihood of dumping and injury from subject countries. In view of the above position and due to favorable market conditions prevailing in the Indian market as far as demand and price for the subject goods are concerned, the Authority holds that in the event of cessation of anti-dumping duties, dumping from the subject countries may intensify. The following analysis shows the likelihood of continuation/intensification of dumping and injury to the domestic industry in the event of cessation of anti-dumping duties:

a) Level of current and past dumping margin

90. The level of dumping margin in respect of the subject countries in the original as well as present investigations is significant. Given the level of price undercutting and price underselling effects from imports of the subject goods from the subject countries, the volume of dumped imports is likely to increase further in the event of cessation of anti-dumping duty. The dumping margin in the original investigation final findings were determined in the range of about 125-130% for China and 40-45% for UAE other than cooperative exporters; and in the present determination also dumping margin is significant.

b) Volume of imports between original period and subsequent periods

91. An analysis of the volume of exports reported in the previous case as well as in the current period shows that the volume of imports in case of China has remained significant, though not alarmingly high, despite imposition of anti-dumping duty. There appears to be a strong probability that the volume would increase in the event of cessation of anti-dumping duty. The Authority holds that cessation of anti-dumping duty will create a margin for infliction of injury to an extent of injury margin as determined during the POI.

92. With respect to imports from UAE, the Authority notes that the volume of imports from UAE have declined and is negligible in the POI. However the prices in POI and post POI continues to be dumped and injurious.

c) Freely disposable present and potential capacities and export tendencies of foreign producers

93. The Authority notes that the subject foreign producers are holding surplus production capacity based on secondary sources data evidenced by Domestic Industry, with the websites of producers in China and UAE.

d) Price attractiveness of the Indian market

94. The Authority notes that the prices at which subject goods are being imported are lower than the price at which the goods are being sold in the Indian market. Therefore, in case of expiry of anti-dumping duty, exporters in China would further channelize their output in the Indian market in view of the significant capacity with them. Further, exporters in UAE are also likely to increase volumes as the domestic demand is limited and capacity for access such demand. This indicates likelihood of possible injury to the domestic industry as imports from the subject countries are likely to undercut the prices of the Domestic Industry in the event of cessation of anti-dumping duty and force the Domestic Industry to reduce its prices further.

e) Vulnerability of Domestic Industry in terms of price sensitivity of the product and the Indian market

95. The Authority notes that the Indian market is quite price sensitive. The consumers decide their procurement, with price being one of the important considerations. Therefore, availability of low priced imports from the subject country in the market could cause an adverse impact on the domestic industry.
96. The Authority notes that capacity of product under consideration in China is about 3 lakh MT and UAE about 16000 MT. The export orientation of Chinese exporters as seen from the World Trade Atlas data is quite significant. As regards UAE, World Trade Atlas does not provide global exports data of UAE. However domestic industry has claimed export intensity of UAE producers/exporters as 80% of its capacity. As imports from UAE continue to be at dumped prices and injurious, though at lowered volumes, the capacity of 16000 MT with not so high domestic demand poses a significant likelihood of continued dumping on cessation of AD Duty.
97. As none of the producers/exporters from China and UAE have responded, the Authority has examined the likelihood of injury in situation of withdrawal of Anti-Dumping Duty on the basis of secondary source data and that provided by the domestic industry.
98. Therefore the Authority notes that in the instant case, dumping of the product under consideration has continued to cause injury to the domestic industry. Possibility of intensified dumping of the subject goods from the subject countries after the expiry of anti-dumping duty may result in intensified injury to the domestic industry given the aforesaid fact that the subject countries hold capacities beyond domestic demand. It is also noted that present anti-dumping duties are acting as a restraint, cessation of which may lead to the Indian market being catered by increased imports of the subject goods manufactured by the producers in the subject countries.

f) Price undercutting, suppression, depression in the absence of measures

99. The prices at which subject goods are being imported from subject countries are substantially lower than the price at which the goods are being sold in the domestic market. Therefore, in the event of cessation of the anti-dumping duties, it is likely that price undercutting may increase further.

Post disclosure comments

Submissions made by the domestic industry

100. The following post disclosure comments by domestic industry have given as under:
- a. Since the customs classification is indicative only, the Designated Authority may specify the same in duty table and that the product under consideration should attract duty regardless of the customs classifications under which goods are being cleared by the importers.

- b. Since the petitioner has given the evidence of domestic price in UAE, and further the price is clearly above the constructed cost of production, the Authority is required to give preference to such evidence of domestic price over the constructed normal value under the Rules.
- c. The imports were undercutting the domestic prices even with the existing anti-dumping duties. Thus, if the quantum of anti-dumping duties were to be reduced, the extent of undercutting will increase.
- d. The domestic industry has reiterated its earlier submissions related to post POI imports, their prices and production capacities of PUC in china and UAE and stated that import volumes had declined to some extent after imposition of anti-dumping duties. However, the volume of import has once again increased in the present POI as compared to previous year. Thus, any reduction in duties is likely to lead to intensified dumping and increase in volume of imports from these countries.
- e. As far as the UAE is concerned, the volume of import from UAE is extremely low because the producer in UAE has an affiliate in Europe and the volume of imports from Europe is quite significant. Further, the import price from Europe is lower than the import price from UAE. The pattern of import volume and price between Europe and UAE clearly shows that the current import volume and price from UAE is not reflective of the likely situation and in the event of reduction of anti-dumping duty, the dumping shall shift back to UAE.
- f. Both dumping margin and injury margin in the POI are significantly positive.
- g. There is continued dumping of the subject goods from the subject countries leading to adverse performance of the domestic industry in terms of rising inventory and declining return on investments in the POI. Thus, implying likelihood of dumping and injury in case of cessation of anti-dumping duties on imports from the subject countries.
- h. The Authority may reconsider the non-injurious price to include expenses related to Advertisement, Fair & Exhibition, Dealer Conference, Transit Loss, Commission to Directors – Executive and Non-Executive and Breakage and Shortage.
- i. The form of measure is required to be kept as an ad valorem duty, worked out as a percentage of the CIF value of imports of the subject goods from the subject countries as in the original investigations and the duty requires to be imposed in terms of US\$.

Submissions made by the exporters, importers and Other Interested Parties/ other Parties

- 101. The Ministry of Economy, UAE has made the following submissions:
 - a. There has been no proper examination of the impact of the dumped imports on the domestic industry
 - b. Rules 23 and 11 together with Annexure II make it clear that the Designation Authority is under a legal obligation to not cumulatively assess the impact of the alleged dumped imports from China and UAE in the sun set review investigation only if it is determined, among others, that the volume of imports from each country is three per cent of the import of like article or where the export of individual countries less than three per cent, the imports collectively accounts for more than seven per cent of the import of like article.
 - c. Therefore, taking into consideration the negligible volume of imports from UAE, we consider that it does not cause injury to the Domestic Industry.

- d. DA has not done a “rigorous and objective” examination of the impact of the dumped imports on the domestic industry.
- e. The injury analysis is inappropriate. The conclusion of the designated Authority on injury, especially, in relation to UAE confirming that: “though the volume of imports from UAE has declined over the injury period, the imports prices are low”, did not take into consideration that imports from UAE is the POI are in fact negligible.
- f. DA has done an inappropriate analysis of causality.
- g. The imports from third countries as well as the decrease in demand during the POI are the major cause of any alleged injury to the domestic industry.
- h. There is no ‘likelihood of continuation or recurrence of dumping and injury from UAE. The data supports instead of that a finding of no likelihood of continuation or recurrence of dumping from UAE.
- i. The designated authority conclusion of likelihood of continuation recurrence of dumping from UAE is not based on facts but “speculative assessments”.
- j. The WTO’s jurisprudence regarding Appellate Body’s verdict in US-Corrosion-Resistant Steel Sunset Review says an affirmative likelihood determination may be made only if the evidence demonstrates that dumping would be probable if the duty were terminated-and not simply if the evidence suggests that such a result might be possible or permissible”.

Examination by the Authority

102. The Authority has examined submissions made by various interested parties in response to the disclosure as under:
- a) The Authority notes the submissions of Domestic industry on constructed normal value for UAE and holds that the sample evidence provided by Domestic Industry cannot be taken as a representative for the entire POI and that in such situations the Authority has adopted the consistent practice of constructing normal value on the basis of cost of production data of the domestic industry with appropriate adjustments. The same methodology has been adopted in this case as well.
 - b) As regards including various additional expenses for NIP determination, the Authority holds that as Opal Glassware is a consumer product, all such expenses which are of post-manufacturing nature (i.e. incurred after the factory gate) are not considered for calculation of NIP.
 - c) The Authority notes the submissions of UAE regarding low volume of imports from UAE in POI and that Rule 11 read with Rule 23 does not allow the Authority to cumulatively assess the injury and that imports from other non-subject countries are the cause of injury to Domestic Industry. The Authority holds that Rule 23 and injury determination under Rule 11 read and Annexure II of Anti-Dumping Rules do not prohibit cumulative assessment of injury as Rule 11 is mutatis mutandis applicable even for sunset review cases. While analysing likelihood, the Authority has undertaken the likelihood of injury due to continued dumped imports during POI and post POI on the basis of secondary sources and data provided by the petitioners, as none of the producers/exporters from subject countries cooperated in the investigation. Various parameters including the extent of injury during POI and likelihood of injury have been analysed by the Authority in the

foregoing paragraphs. As regards the fresh sources of imports, the petitioner needs to seek remedy against these separately. The injury assessment for the subject countries under consideration has been done on listed injury parameters during POI and also the likelihood analysis on cessation of Anti-Dumping measures.

d) The other submissions have been appropriately considered in this findings.

J. CONCLUSIONS

103. Having regard to the contentions raised, information provided and submissions made by the interested parties and facts available before the Authority as recorded in this finding and on the basis of the above analysis of the state of continuation of dumping and consequent injury and likelihood of continuation/recurrence of dumping and injury, the Authority concludes that:

- (i) There is continued dumping of the product concerned from China, and imports are significant both in absolute terms and in relation to production/consumption in India causing injury to the domestic industry.
- (ii) Imports UAE have though declined to a low volume but still continue to be dumped and injurious.
- (iii) Dumping of the product under consideration from the subject countries is likely to continue and even intensify should the current antidumping duty cease, in view of available surplus capacities in subject countries.
- (iv) Imports from subject countries are undercutting the prices of the domestic industry.
- (v) The performance of the Domestic Industry has declined in terms of sales volume, per unit profits, return on investments, market share and inventories in the POI.

K. RECOMMENDATIONS

104. Having concluded as above, the Authority is of the view that the anti-dumping measures are required to be continued in respect of the subject countries. Therefore, the Authority considers it necessary to recommend continued imposition of the following definitive anti-dumping duty on imports of subject goods from the subject countries in the form and manner as described in the duty table given below.

105. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of definitive anti-dumping duty equal to the lesser of the dumping margin and injury margin. The Authority further notes that there is a significant differentiation of the product under consideration in terms of its weight and price. Therefore, antidumping duty in terms of reference price or fixed duty would not be appropriate in this case. The Authority recommends imposition of anti-dumping measure as an ad valorem duty, worked out as a percentage of the CIF value of imports of the subject goods from the subject countries. Accordingly, definitive antidumping duty equal to the amount arrived at by applying the percentage indicated in Col 8 of the duty table given below is recommended to be imposed on all imports of subject goods originating in or exported from the subject countries from the date of notification to be issued in this regard by the Central Government.

DUTY TABLE

SN	Heading/ Sub heading	Description of goods	Country of Origin	Country of Exports	Producer	Exporter	% of CIF Value
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1	7013	Opal Glassware	China PR	China PR	Any	Any	30.64
2	7013	-do-	Any	China PR	Any	Any	30.64
3	7013	-do-	China PR	Any	Any	Any	30.64
4	7013	-do-	UAE	UAE	Any	Any	4.38
5	7013	-do-	Any	UAE	Any	Any	4.38
6	7013	-do-	UAE	Any	Any	Any	4.38

106. 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.

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

Dr. Inder Jit Singh
Additional Secretary & Designated Authority