

**MINISTRY OF COMMERCE & INDUSTRY**  
**(Department of Commerce)**  
**(Directorate General of Anti Dumping & Allied Duties)**

**NOTIFICATION**

New Delhi, the 20th November, 2002

**PRELIMINARY FINDINGS**

**Subject :** Anti-dumping investigation concerning import of Float Glass originating in or exported from Peoples' Republic of China and Indonesia- Preliminary Findings.

**No. 14/19/2002-DGAD** - The Government of India having regard to the Customs Tariff Act, 1975 as amended in 1995 and the Customs Tariff (Identification, Assessment and Collection of Anti Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, thereof;

**A. PROCEDURE**

2. The procedure described below has been followed:-

- i. The Designated Authority (hereinafter referred to as Authority), under the above Rules, received a written petition from All India Flat Glass Manufacturers' Association (AIFGMA), New Delhi on behalf of the domestic industry, alleging dumping of Float Glass (hereinafter referred to as subject goods) originating in and exported from Peoples' Republic of China and Indonesia (hereinafter referred to as subject countries) ;
- ii. The following producers of Float Glass in India and members of the AIFGMA (hereinafter referred to as the petitioners) have specifically consented to participate in the anti-dumping investigations:
  - a. M/s. Saint Gobain Glass India Ltd., Kanchipuram, Tamil Nadu.
  - b. M/s. Float Glass India Ltd., Mumbai.

Another domestic producer, viz., M/s. Gujarat Guardian Ltd., Dist. Bharuch, Gujarat has supported the petition.

- iii. The Authority notified the Embassies of Peoples' Republic of China and Indonesia in India about the receipt of dumping application made by the

- petitioners before proceeding to initiate the investigation in accordance with sub-rule (5) of Rule 5 supra;
- iv. The Authority issued a Public Notice dated 5th July 2002 published in the Gazette of India, Extraordinary, initiating anti dumping proceedings concerning imports of Float Glass covered under Chapter heading/subheading 70.05 of Schedule I of the Customs Tariff Act.
  - v. The Authority forwarded copy of the said public notice to the known exporters, importers and to the complainants and gave them an opportunity to make their views known in writing.
  - vi. According to sub-rule (3) of Rule 6 supra, the Authority provided a copy of the petition to all the known exporters and Embassies of subject countries in India.
  - vii. The Authority sent questionnaires, to elicit relevant information, to the following exporters: -

Qinhuangdao Huazhou Glass Co. Ltd.,  
No.1 Xiafeng Road,  
Haigang District,  
Qinhuangdao,  
China.

M/s. PT Mulia Industrindo,  
Plaza Kuningan,  
Menera Utara 10th Floor,  
Jl. H.R. Rasuna Said Kav. C11-14,  
Indonesia.

M/s. PT Tensindo,  
Jalanraya,  
Samarang,  
Indonesia.

M/s. PT Abdi Rakyat Bakti,  
JL. Gandhi. No. 130,  
Medam 20214,  
Indonesia.

- viii. The Embassies of subject countries in New Delhi were also informed about the initiation of investigation and requested to advise the exporters/producers from their countries to respond to the questionnaire within the prescribed time;
- ix. The questionnaire was sent to the following importers of subject goods:

1. Mahavir Mirror Industries  
Chennai – 600 007
2. Renuka Enterprises  
Chennai- 600 007
3. T.N. Glass Corp.  
Chennai
4. Stella Mary Exports  
Tuticorin
5. Impact Safety Glass Works (P) Ltd.  
Bangalore
6. Sri Chakra Laminates  
Bangalore
7. Liberty Glass House  
Mumbai – 400 003
8. Kanch Ghar  
Bombay – 400 056
9. Monica Exim (P) Ltd.  
Pune – 411 001
10. Bharti Glass Co.  
Calcutta – 700 001
11. Chinoy Chibhani & Co.  
Calcutta – 700 001
12. G.S.C. Toughened Glass (P) Ltd.  
Noida
13. Jolly Glass Industries  
New Delhi.
14. S S Industrial  
New Delhi.
15. Lakshmi Floatglass Limited  
Kirti Nagar, New Delhi.
16. M/s T.L.Verma & Co.  
Chandigarh.
17. M/s Noble Glass Impex  
New Delhi – 110 055
18. Prashant Trading Co.  
Mumbai – 400 007
19. Rajvi Enterprises/Samarth Industries  
Mumbai – 400 007
20. Oceanic Offshores/Right Pulls & Lift  
Mumbai – 400 003

- x. Additional information regarding injury was sought from the petitioners, which was also furnished;
- xi. The Authority kept available non-confidential version of the evidence presented by various interested parties in the form of a public file maintained by the Authority and kept open for inspection by the interested parties;
- xii. \*\*\*\*\* in this notification represents information furnished by the interested parties on confidential basis and so considered by the Authority under the Rules;
- xiii. The investigation covered the period from 1st April 2001 to 31st December 2001;
- xiv. Copies of initiation notice were also sent to FICCI, CII, ASSOCHAM etc., for wider circulation.

## **B. PETITIONER'S VIEWS**

3. The petitioners have made the following major arguments in their submissions:-

- i. The product under consideration in the present petition is Float Glass with following description: -

'Float glass of thickness 2 mm to 12 mm (both thickness inclusive) of clear as well as tinted variety (other than green glass) but not including processed glass meant for decorative, industrial or automotive purposes'.

The product is covered under Chapter Heading 70.05 of First Schedule of the Customs Tariff Act, 1975.

- ii. The product finds major uses in construction, refrigeration, mirror and solar energy industries etc. The product is a superior quality of glass. Due to its inherent strength, high optical clarity, distortion free smooth surface etc., the application of the product has been increasing for different purposes.
- iii. The Petitioners' accounts for 49.49% share of the total domestic production of Float Glass in India. Along with the production of the supporting producers, the share of the Petitioner becomes 82.09% of the total domestic production.
- iv. There is no difference between the products manufactured by the domestic industry in India and the imported goods.
- v. There is no difference between the production process of the domestic industry in India and that of the imported goods.

### **Import data used for the Petition**

- vi. The statistics published by the Directorate General of Commercial Intelligence and Statistics (DGCI&S) of the Ministry of Commerce, Calcutta, give combined details of all types of Float Glass and surface ground or polished glass imports into India from various countries in terms of volumes and value. However, the product for which this petition has been filed relates only to **"Float Glass of thickness 2 mm to 12 mm (both thickness inclusive) of clear as well as tinted variety (other than green glass) but not including processed glass meant for decorative, industrial or automotive purposes"** which are being dumped and causing injury to the domestic industry. This petition seeks to cover only "subject float glass" for which no dedicated heading exists nor is the data compiled by any agency (including DGCIS) in that manner.

In view of the fact that DGCI&S data is not available for the subject goods, we have collected and collated the same from Impex Data Services and the data available for ICD Delhi from BE Register.

### **On Dumping**

- vii. We have tried to get information on prices of the subject goods in the domestic market of Indonesia. We have also made efforts to get price list of the exporters or price evidence for the export to other country. We submit that we have not been able to get any evidence either with regard to the prices of the subject goods in Indonesia or the price list of the exporters either for sale in Indonesia or for exports to other countries. Under such circumstances, constructed normal value is a good indicator of the normal value for the purpose of initiation of investigation. We request the Hon'ble Designated Authority to accept constructed normal value based on the cost of production in the country of origin. We have been able to obtain the annual report of M/s. Mulia Industries of Indonesia, who are an important producer and exporter of float Glass. We have based our calculations of normal value on the audited accounts of the company suitably adjusted for cost elements not accounted for in the audited accounts.
- viii. As regards China also, we would request the Authority to accept the normal value estimated by us on the same basis. Para 7 of Annexure I of the Anti-dumping Rules may also be referred to.
- ix. The export price for subject countries has been worked out on the basis of the import figures available with us along with the cif values. Adjustments have been made on account of Ocean Freight, Marine Insurance, Inland Transportation in the country of export, Port handling and Port charges to arrive at ex-factory export price.

## **On Injury**

- x. The petitioner has given detailed information on injury and causal link which has been dealt with appropriately in the relevant part of these findings.

## **C. EXPORTERS', IMPORTERS', USERS' AND OTHER INTERESTED PARTIES' VIEWS**

4. Responses have been received from the following exporters: -

- i. PT Mulia Glass, Indonesia.
- ii. PT Abdi Rakyat Bakti, Indonesia.
- iii. PT Tensindo, Indonesia.
- iv. M/s Qinhuangdao Huazhou Glass Co. Ltd., China
- v. M/s Nanning Float Glass Co. Ltd., China

5. The submissions made and/or the information provided by the above are as follows:

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(i) **PT Mulia Glass, Indonesia** : - The exporter has furnished detailed response giving information regarding domestic sales, exports to India, cost of production. Separate non-confidential version had not been submitted. However, the exporter had informed "these information which we deem confidential of nature are duly stamped 'Confidential', while those submitted without any marks/stamps are to be considered non-confidential". Accordingly, from the submissions made by the exporter, the information marked/stamped as "Confidential" has been removed and the remaining information/document have been treated as non-confidential and placed in Public File. The exporter has made following general comments in their submissions :-

### **a. Volume of Exports to India during period**

During the period 1 April 2001 upto 31 December 2001 total exports to India amounted to only 2,101 tonnes which translates into US\$ 425,241 FOB.

### **b. Evidence of Dumping**

The AIFGMA submits that for the purpose of the investigation, their constructed normal value is a good indicator. This, in turn is based on the cost of production in the country of origin. We would like to insist that cost of production calculated on the basis of PT Mulia Industrindo's Annual Report of year 2000 is not acceptable, for the following reasons :-

- i. PT Mulia glass is not PT Mulia Industrindo; it is only its subsidiary.
- ii. The period of investigation is 1st April 2001 upto 31st December 2001.

c. **Estimates of Export Price**

In general, estimates for Export Price are not complete. There are no figures for ocean freight, marine insurance and port handling charges. It is also unacceptable to base inland transportation costs in Indonesia on the Indian experience, as geographically the two are quite different.

d. **Market share of Imports**

Market share of imports from China and Indonesia collectively amounts only to 3.32% to total demand. We are of the opinion that such figure is too insignificant as an indicator of Domestic Injury.

e. **Other indicators of domestic injury**

We are of the opinion that the figures submitted by the AIFGMA for indicators such as changes in market share, output/productivity & capacity utilization, sales, employment, wages etc. are either incomplete or irrelevant to the case.

(ii) **PT Abdi Rakyat Bakti, Indonesia** : - The exporter has furnished only one set of response with all information marked as confidential. No other set of non-confidential information has been furnished as required under the Rule 7(2). The exporter was also advised vide letter dated 6.9.02 to submit non-confidential version, which has not been furnished. The exporter has not furnished information relating to cost of production. They have also not furnished the Profit & Loss Account and Balance Sheet.

(iii) **PT Tensindo, Indonesia**: - The exporter has furnished details of domestic sales of float glass, export sales to India. The cost of production has been furnished month-wise and several element of costs have been mentioned in the Indonesian language and not in English. Financial statements containing profit and loss account and balance sheet for the period relating to investigation and previous two years (in English language) have also not been furnished. The non-confidential version furnished by the exporter is also inadequate as the summarised non-confidential information in respect of all the parts of the questionnaire also needs to be furnished.

(iv) **M/s Qinhuangdao Huazhou Glass Co. Ltd., China**

The company has stated that they are not dumping glass in India. Further, as per the company the current price of India CIF Indian port is lower than their domestic price. Their company's glass price is on high side in Chinese glass market due to very good

quality. The company stated that they will arrange evidence to be submitted by end October, 2002. Further, their exports of clear Float Glass to India are only 2.5% from their total production. They have not furnished response on the exporter's questionnaire and are thus considered as non-cooperative.

**(v) M/s Nanning Float Glass Co. Ltd., China**

The company has informed to have not exported float glass during the period of investigation and so they have not filled the questionnaire response. They have started exporting to India in the year 2002.

6. The following importers have responded:

- i. M/s. Monika Exim International Ltd., Pune.
- ii. M/s. Liberty Glass House, Mumbai.
- iii. M/s. Impact Safety Glass Works Pvt. Ltd., Bangalore
- iv. M/s. Mahaveer Mirror Industries
- v. M/s. T.L.Verma & company (P) Ltd.
- vi. M/s Samarth Industries, Mumbai
- vii. M/s Rajvi Enterprise, Mumbai
- viii. M/s Chinoy Chablani & Company, Calcutta

**7. Submissions made by M/s. Mahaveer Mirror Industries and M/s. T.L.Verma & Company (P) Ltd.**

- i. The importers in their submissions have drawn attention to the provisions of Rule 7(1), 7(2) and 7(3) of the Anti Dumping Rules citing the same in the response. These are not being reproduced here for the sake of brevity.
- ii. The importers have further argued that guidance may be taken from WTO Anti Dumping Agreement Article 6.5.1 as to what a non-confidential summary should contain.
- iii. As per the importers the non-confidential version of the petition filed by the Domestic industry in this particular case miserably fails to meet the above stated legal requirement. It does not permit a reasonable understanding of the substance of the information submitted in confidence.
- iv. The basis of conversion of import quantity from square metre to MT has not been given in the NC version. The importance of import data in an anti-dumping investigation needs no emphasis. Crucial issues like de-minimis levels of imports, export price per unit, price undercutting, price under selling, etc. depend on volume of imports.
- v. It is apprehended that the column 'thickness' was not available in the import data but had been added by the petitioners. If that is so, the petitioners should

- have mentioned in the NC version of the petition, the basis of arriving at the thickness for each transaction as the volume of imports depends on thickness.
- vi. The petitioners state that they had calculated normal value based on the audited accounts of M/s. Mulia Industries, Indonesia after suitably adjusting for cost elements not accounted for in the audited accounts. The very statement is intriguing. Following comments have been made by these importers on claim of petitioner regarding normal value:-
- What is the basis for making such a serious allegation that certain cost elements are not accounted for in the audited accounts?
  - How did the petitioners identify cost elements that were not accounted for in the audited accounts?
  - Since they had relied on published audited accounts, they should have been made available as part of the non-confidential version of the petition. The petitioners have not done so.
  - They have not indicated the basis on which they arrived at a conclusion that certain cost elements are not accounted for in those audited accounts.
  - They had failed to give a summary of such cost elements and how they estimated the quantum of such cost elements for addition to the audited accounts of PT Mulia Industries of Indonesia.
  - The correct name of the company should be PT Mulia Industrindo, which is a holding company with a number of subsidiaries involved in the production of ceramic, crockery, glass blocks, float glass, electricity generation, etc. The NC version does not give any information as to the accounts of which unit or subsidiary they had relied upon. It is apprehended that the petitioners have taken the consolidated accounts of the holding company and made adjustments as they thought fit so that they could project a dumping margin suitable for their purposes.
- vii. The petitioner has claimed the normal value in respect of China "on the same basis ". It is not clear whether normal value estimate is based on the information for the Indonesian exporters or on any other different information.
- viii. The petitioner has not disclosed the adjustments claimed on account of ocean freight, marine insurance, inland transport and port handling and port charges from the export price. These adjustments are based on publicly available information and the Authority should not allow the petitioners to convert open information into company specific confidential information.
- ix. The petition only gives \*\* marks in respect of export price, normal value, net export realization. The last line entry, dumping margin percentage alone has been provided in the petition.

- x. The information on various injury parameters has been given with mere \*\* marks and does not give the interested party a reasonable understanding of the information submitted in confidence.
- xi. The importer has made a prayer that the petitioner be directed to provide proper non-confidential version of the petition before proceeding further in this case.

#### **8. Submission made by M/s. Monika Exim International Ltd., Pune :**

- i. All India Flat Glass Manufacturers' Association (AIFGMA) had previously made complaint to the Customs Authority on 7.4.1998 of alleged heavy under-invoicing by the Indonesian manufacturer of Float Glass in collusion with the Indian importers. On examination, the Customs Authority did not find the evidence of under-invoicing. On 26.5.1998, AIFGMA filed a complaint against the same manufacturers before the Designated Authority alleging dumping of goods. The Designated Authority closed the case since AIFGMA could not establish dumping and injury to the domestic industry. The same Association filed a complaint on 10.9.1998 before the Monopolies and Restrictive Trade Practices Commission. The grounds taken by the petitioner in this petition and in the complaint before the MRTP Commission are the same. The AIFGMA has maliciously succeeded in getting simultaneous dual proceedings against the very same imports.
- ii. The petitioner has suppressed a vital fact from the Designated Authority that a petition is pending before the MRTP Commission.
- iii. The domestic industry has formed a cartel of Float Glass Manufacturers who are themselves involved in Monopolistic and Restrictive Trade Practices.
- iv. The non-confidential part of the petition hides most of the facts and figures.
- v. The product under consideration is too broad. The petitioners do not manufacture all sizes and are confined to the limited standard sizes and, therefore, other sizes have to be kept out of the purview of the Anti-Dumping Duty.

#### On Imports

- vi. The petitioners claim that dumping has aggravated during POI. The fact is, however, the imports have rather shown decline over the years – in spite of lifting of orders by MRTP Commission – thanks to the predatory pricing and restrictive trade practices adopted by the domestic industry. Gradual removal of the importers from the market is a clear testimony that the domestic industry has forced decline in imports, by using all possible means.
- vii. Imports were, under normal circumstances, expected to have increased in proportion to the increase in the demand level in India. On the contrary,

imports declined in relation to demands of the product in the Country – for the simple reasons stated hereinabove.

- viii. Imports from China consists of mainly heat reflective glasses and not subject items. The quantum of import of subject item from China is negligible.
- ix. The petitioners have shown the quantity of import in MT for all the items and thickness of Float Glass whereas the subject items are only small part of the total imports and, therefore, the thickness-wise, item-wise, colour-wise, with or without reflective coating should have been segregated to arrive at the actual quantities and value of the import items.

### On Domestic Industry

- x. The petitioners do not manufacture all kinds of tinted glass and the glass with coated layer reflective. One of the petitioners, M/s Saint Gobain Glass India Ltd. himself was an importer till the commencement of the production in July 2000 and had imported substantial quantity to eradicate his competitors.
- xi. The petitioner no. 3 imports the Float Glass with reflective layer by themselves and also through their agents of their group company. The group company M/s Glaverbel and Glavemas are part of Asahi group of company and the said petitioner is part of the same group.
- xii. There are following other manufacturers of Float Glass in India who produce similar or substitutable items:
  - a. Haryana Sheet Glass Ltd.
  - b. Triveni Glass Ltd.
  - c. Gujarat Borosil Ltd.
  - d. IAG Company Ltd.

The petitioners have not admitted these companies as Indian producers. In case the product being produced by these companies is not a like product, the relevant issue would be whether the product being imported from Indonesia and China is a like product.

### On POI

- xiii. The petitioners have cleverly chosen POI as April 2001 – December 2001 when they could get data for the entire financial year upto 31st March 2002. Choosing of nine months as POI is malafide and malicious.
- xiv. The imports from China are 1047 MT per annum which is less than one-quarter percent of the total production of domestic industry. While it is not disputed that such low volume of imports are above de-minimus limits, the relevant

issue is how these imports could have adverse price effect on the domestic industry.

#### On Normal Value

- xv. The constructed Normal Value in the petition is misleading. It is based on the accounts of Mulia Industrindo, who is a holding company and not the producer of subject goods.

#### On Dumping Margin

- xvi. The petitioners have taken the values per MT consolidated for all the items with different thickness and varieties of clear and tinted glass whereas the Normal Value and Export Price will be different for different thickness and varieties.

#### On Injury

- xvii. The submissions of the importer on injury have been dealt with in the relevant portion in subsequent paragraphs.

9. **M/s Liberty Glass House, Mumbai** have furnished a response to the questionnaire giving details of imports made. However, they have not furnished any non-confidential summary of the response. Their response has, therefore, not been considered for the preliminary findings.

10. **M/s Samarth Industries, Mumbai and M/s Rajvi Enterprise, Mumbai** have furnished importer's questionnaire information giving details of imports made from subject countries. The importers have not furnished any separate non-confidential summary of the questionnaire response. These confidential responses have, therefore, not been considered for the preliminary findings. However, M/s Samarth Industries has also made following general arguments in non-confidential manner : -

- a. The application of anti dumping duty is made according to MT basis whereas actually in domestic and international market, glass is sold as per square metre basis and thickness basis.
- b. There are many items which are not manufactured in India even though the anti dumping duty is applied on that also.
- c. The balance sheet of P.T. Mulia Industrindo, Indonesia filed is a group company manufacturing a number of items and not only glass. The balance sheet of P.T. Mulia Glass should be filed which will give a correct picture.

- d. Link is not established between dumping and injury to domestic manufacturers. Without injury, the anti dumping duty should not be sought.
- e. The domestic production is 1500 MT per day whereas the imports under the investigation period are 5874 MT which cannot injure or create a problem to domestic manufacturers.
- f. The data in all the tables shown in the application are hidden under the mark \* in the non-confidential version. It does not give proper and reasonable opportunity to them to verify and counter check and make their submissions based on this data

11. **M/s. Impact Safety Glass Works Pvt. Ltd., Bangalore** have furnished response on importer's questionnaire and have also made arguments on the issues viz., product involved, domestic industry etc.. However, they have not furnished any non-confidential summary of their response and have also specifically stated to treat their letter as confidential. The authority had requested the said importer vide letter dated 6th September, 2002 to furnish non-confidential summary of their response. However, non-confidential response has not been furnished by the importer. Therefore, the Authority is constrained to disregard their submissions as per Rule 7 (3) of the Rules Supra.

12. **M/s Chinoy Chablani & Company, Calcutta** has informed that they have never dealt with Float Glass exported from People's Republic of China and Indonesia during the period of investigation.

## **D. EXAMINATION AND FINDINGS BY THE AUTHORITY**

13. The submission made by the petitioners, importers, exporters and other interested parties, to the extent filed before the Authority have been examined and considered while arriving at these findings and wherever appropriate have been dealt hereinafter.

14. The cases of new exporters or those stated to be willing to give price undertaking shall be considered, on request, by the Authority in accordance with the Rules supra.

### **Product Under Consideration And Like Article**

15. The product under consideration in this investigation is 'Float Glass of thickness 2 mm to 12 mm (both thickness inclusive) of clear as well as tinted variety (other than green glass) but not including processed glass meant for decorative, industrial or automotive purposes' (hereinafter referred to as subject goods). The subject goods find major uses in construction, refrigeration, mirror and solar energy industries, etc.

The product is covered under Customs heading 70.05 of Schedule I of Customs Tariff Act. This Custom classification is however, indicative only and is in no way binding on the scope of the present investigation.

Some of the importers have raised the issue regarding the scope of the product under consideration and have requested the Authority to restrict the investigations to the size of the Float Glass being manufactured by the domestic industry. No justifiable reason has been given by the opposing interested parties in support of their argument to restrict the investigation to the thickness or types being manufactured by the domestic industry. The Authority considers the Float glass manufactured by the domestic industry as having similar characteristics to those of the imported product.

The Authority reiterates that the investigation relates to the following specification of the Product Under Consideration: -

*'Float Glass of thickness 2 mm to 12 mm (both thickness inclusive) of clear as well as tinted variety (other than green glass) but not including processed glass meant for decorative, industrial or automotive purposes'.*

### **Like Article**

16. The petitioners have claimed that there is no difference between the products manufactured by the domestic industry in India and the imported products. There is evidence of imports from the subject countries in various thickness in the range of 2 mm to 12 mm both in clear and tinted variety of Float Glass. The Float Glass being imported from the subject countries is a commercial substitute for the domestically produced Float Glass. Thus, the Authority holds, for the purpose of preliminary determination, that Float glass being produced by the domestic industry is like article to the product under consideration.

### **De-Minimus Limits**

17. As regards ascertaining that the imports from the subject countries during the period of investigation (POI) are above de-minimus levels, the Authority notes that DGCI&S data gives information about Float glass imports under Heading 70.05 of all types and thickness. The petitioner has collected and collated the import data of subject goods from Impex Data Services and the data available for ICD Delhi from BE register. The Authority notes that as per the information received from the Indonesian exporters and the importers the volume of imports from these countries almost corroborate with those given in the petition. Therefore, the Authority finds the data compiled by the petitioner on the basis of secondary source as fairly reliable. The imports of subject goods during POI as per the petition are as under:

Country Name	Quantity (MT) during POI	%age share in imports during POI
Indonesia	3621	79.27%
China PR	785	17.18%

Thus, the Authority finds that the imports from the subject countries during the POI are above de-minimus levels.

### **Domestic Industry**

18. The petition has been filed by All India Flat Glass Manufacturers Association (AIFGMA); through the member companies, viz., M/s. Saint Gobain Glass India Ltd., Kanchipuram, Tamil Nadu and M/s. Float Glass India Ltd., Mumbai. Another domestic producer, viz., M/s. Gujarat Guardian Ltd., Dist. Bharuch, Gujarat has supported the petition. The share of the two petitioner companies is more than 25% of the domestic production of subject goods. The two petitioner companies and the other domestic producer supporting the petition account for more than 50% of the total domestic production of subject goods and therefore, the petitioners satisfy the criteria of standing as domestic industry to file the petition in terms of Rule 5(3) (a) of the Rules supra.

19. One of the importers has raised an issue regarding the standing of the domestic industry on the ground that there are other producers of Float Glass in India. The Authority observes that M/s Haryana Sheet Glass Ltd., M/s Gujarat Borosil Ltd. and M/s IAG Company Ltd. are manufacturers of Sheet Glass. The other producer M/s Triveni Glass Ltd., who manufactures Float Glass, has already been shown as a manufacturer under ‘ Other Producers ’ in the petition.

20. The petitioner companies account for a major proportion of the total Indian production of subject goods. Thus, the Authority holds that petitioners satisfy the criteria of standing to file the petition on behalf of the Domestic Industry in terms of Rule 5(3) (a) of the Rules supra.

### **Issue of insufficient non-confidential information**

21. Some of the interested parties have raised issue regarding inadequate non-confidential version of the petition. The Authority observes that the petitioner had provided non-confidential version of the petition containing details of import data relied upon by them. A note on collation of import data has also been attached in the non-confidential version. The basis of conversion of the import quantity from square metre into MT has been sought by the importers. The product Float Glass is imported in various thickness and in ‘clear’ and ‘tinted’ varieties. The DGCI&S data does not give details of various thickness and type of Float Glass imports and therefore, the

petitioner had furnished thickness and type-wise import data as collated from secondary sources. The Authority has received response from the exporters and has been able to arrive at normal value and export price in terms of MT for various thickness and colour or clear type of Float Glass. The Authority also observes that the non-confidential petition contains summary of the confidential information. The petitioner has provided indexed information of the market share of imports, output, productivity and capacity utilization, sales volume etc..

### **Earlier Complaints made by AIFGMA before The Designated Authority, Customs and MRTP Commission**

22. The importers have argued that the petitioner has in the past unsuccessfully raised the issue of import of Float Glass before this Authority as well as Customs Authority and MRTP Commission. The Authority is of the view that the earlier complaints made by the petitioner in the year 1998 before the Customs Authority or before the DGAD may not have a bearing on the present investigation. The present investigation relates to the investigation period April 2001-December 2001 and the Authority proposes to conduct it within the ambit of the relevant Customs Tariff Act and the Rules framed there under.

23. As regards the matter relating to petitioners' complaint before the MRTP Commission, the Authority has taken note of the judgement dated July 22nd, 2002 of the Hon'ble Supreme Court in the Civil Appeal No. 2330 of 2000 – M/s Haridas Exports vs All India Float Glass Manufacturers' Association and Others. The Hon'ble Supreme Court has, inter-alia, made the following conclusions in the said Appeal :-

- a. Anti dumping provisions do not per se oust the jurisdiction of the MRTP Commission.
- b. The MRTP Commission can, inter-alia, take action whenever a Restrictive Trade Practice is carried out in India in respect of imported goods or otherwise. While making the above conclusions, among others, the Hon'ble Supreme Court has also, inter-alia, held in the said Order that "it is thus seen that the provisions relating to anti dumping contained in the Customs Tariff Act do not in any way affect the power of jurisdiction of the MRTP Commission. The Import Control Act and the Customs Tariff Act on the one hand and the MRTP Act on the other operate in different independent fields and the authority under one has no jurisdiction over the other. In other words, their paths do not cross each other. While the provisions of Anti dumping Act are concerned with the levy of anti dumping duty, the MRTP Act in the present case would be concerned with the agreements between the parties which relate to the restrictive trade practices. Therefore, it would be incorrect to say that the incorporation of the anti dumping provisions ousts the jurisdiction of the

MRTP Commission to inquire and pass orders, inter alia, with regard restrictive trade practice in India."

24. The Authority thus observes that the Hon'ble Supreme Court has held that the Customs Tariff Act on the one hand and the MRTP Act on the other operate in different independent fields and the Authority under one has no jurisdiction over the other. In other words, the Authority does not find any merit in the contention of the importer M/s Monika Exim International Ltd., Pune that the petitioner has maliciously succeeded in getting simultaneous dual proceedings against the same imports. The present anti-dumping investigation under the Customs Tariff Act does not get restrained due to the ongoing complaint before the MRTP Commission.

## **E. DUMPING & EXAMINATION OF CLAIMS MADE ON NORMAL VALUE & EXPORT PRICES**

### **Normal Value**

25. Under Section 9A(1)(c) of the Customs Tariff (Amendment ) Act,1995 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)";

26. The Authority sent questionnaire to all the known exporters for the purpose of determination of normal value in accordance with Section 9A(1)(c). The responses received from the exporters have been dealt as under:

### **Normal value determination for exporters from Indonesia**

### PT Mulia Glass

27. M/s PT Mulia Glass has submitted detailed information regarding domestic sales, exports to India, cost of production, sale price structure for exports and domestic sales, average domestic freight cost and exchange rate. The exporter has given information regarding domestic sales in terms of MT for different thickness and clear and dark grey types. Analysis of the domestic sales price prima facie indicates that more than 80% of these sales are in the ordinary course of trade. The Authority has therefore considered the domestic sales price for normal value determination. The weighted average sale price for different thickness has been considered as the basis and adjustments of 1.5% on account of discounts/commissions, packing costs as given by the exporter and freight amount of Rp\*\*\* have been made to arrive at normal value at ex factory level.

### M/s PT Tensindo

28. M/s PT Tensindo, Indonesia has furnished details of domestic sales of float glass, export sales to India. The cost of production has been furnished month-wise and several element of costs have been mentioned in the Indonesian language and not in English. The authority notes that the following information as required in various Appendices of the Exporter's Questionnaire has not been furnished:

- i. Appendix-3 for Sales of the Goods of the Company showing quantity and value both not furnished.
- ii. Sale Price Structure for Exports to India as per Appendix-4.
- iii. Sale Price Structure for Domestic Sale as per Appendix-5.
- iv. Sale Price Structure for Exports to other countries as per Appendix-6.
- v. Information on Appendix-7 regarding installed capacity, production and sales.
- vi. Factory cost and profit of exports / profit of domestic sales / profit of exports to other countries as per Appendices – 8, 9 and 10.

Financial statements containing profit and loss account and balance sheet for the period relating to investigation and previous two years (in English language) have also not been furnished. The non-confidential version furnished by the exporter is also inadequate as the summarised non-confidential information in respect of all the parts of the questionnaire also needs to be furnished. In order to determine the domestic sales to be in ordinary course of trade, the furnished information relating to cost of production is neither sufficient nor in the prescribed proforma. The Authority is, therefore, constrained to rely upon the best available information for Normal Value determination. The Authority has, therefore, determined the Normal Value in respect of this exporter on the basis of information available in the case of M/s PT Mulia,

Indonesia for the preliminary determination pending submission of complete information and verification thereof.

### **PT Abdi Rakyat Bakti, Indonesia**

29. The exporter has furnished only one set of response with all information marked as confidential. No other set of non-confidential information has been furnished as required under the Rule 7(2). The exporter was also advised vide letter dated 6.9.02 to submit non-confidential version, which has not been furnished. The Authority finds that the exporter has not given satisfactory reason for not furnishing non-confidential version. The exporter has also not furnished information regarding cost of production and the Profit & Loss Account and Balance Sheet. The Authority thus holds that the exporter has not fully cooperated in the investigation. The Authority has, therefore, in terms of Rule 7(3) disregarded the information furnished by the exporter for the Preliminary Findings. The Authority has, therefore, been constrained to rely upon the best available information under Rule-6 (8) for Normal Value determination. The Authority has, therefore, determined the Normal Value in respect of this exporter on the basis of information available in the case of M/s PT Mulia, Indonesia for the preliminary determination pending submission of complete information and verification thereof.

### **Normal value determination for China PR:**

30. None of the exporters from China PR has given complete response to the questionnaire sent to them. The authority had informed the Embassy of China PR in India about the initiation of this investigation with advice to inform the exporters of the subject goods to furnish information on the questionnaire. M/s Qinhuangdao Huazhou Glass Co. Ltd., China, who has stated to have exported the subject goods during the POI, did not co-operate by furnishing the information as per the questionnaire. The company has stated that they are not dumping glass in India. Further, as per the company the current price of India CIF Indian port is lower than their domestic price. Their company's glass price is on high side in Chinese glass market due to very good quality. Further, their exports of clear Float Glass to India are only 2.5% from their total production. They have not furnished response on the exporter's questionnaire and are thus considered as non-cooperative. The other exporter M/s Nanning Float Glass Co. Ltd., China has informed to have not exported float glass during the period of investigation and so they have not filled the questionnaire response. The Authority confirms, in the absence of any complete response from the exporters from China PR in the form and manner prescribed, having made the findings with regard to exports from China PR on the basis of the facts available to it as per rule 6(8) supra. Accordingly, the Authority has determined the Normal Value in respect of China PR on the basis of constructed cost of

production. While doing so, the Authority has considered the evidence regarding cost of production furnished by the domestic industry and has referenced the Normal Value with reference to actual cost of production of domestic industry after normalizing it at optimum efficiency level.

### **Export price in respect of Indonesia:**

31. Export price in respect of M/s PT Mulia Glass has been determined on the basis of information furnished by the exporter. They have furnished details of exports of Float Glass 'Clear' and 'Dark Grey' in various thicknesses. The Authority has considered the export prices shown in the questionnaire response. The exporter has shown adjustments on account of packing, ocean freight, insurance, shipping charges, trucking costs, clearance and handling and fumigation charges. The Authority has allowed adjustments of \$\*\*\* on these account as claimed by the exporter. The ex-factory export price comes to US\$\*\*\* /MT.

32. Export price in respect of M/s PT Tensindo has been considered on the basis of the furnished information regarding sales to India. Similar adjustments as made in the case of M/s PT Mulia have been made from the CIF export price to arrive at the export price at ex-factory level.

33. Export price in respect of PT Abdi Rakyat Bakti, Indonesia has been considered on the basis of the furnished information regarding sales to India. Similar adjustments as made in the case of M/s PT Mulia have been made from the CIF export price to arrive at the export price at ex-factory level

### **Export price in respect of China:**

34. There has been no response from any exporter from China. The Authority has therefore relied upon the data furnished in the petition for export price determination. As per this information the weighted average CIF export price comes to US\$ \*\*\*. Adjustments have been made on account of ocean freight, insurance, inland freight, and port handling charges. The export price at ex-factory level comes to US\$\*\*\*/MT.

### **Dumping margin**

35. The principles governing the determination of normal value, export price and the dumping margin are laid down in Annexure-I to the Rules. For the purpose of the fair comparison between the normal value and export price, the Authority has made calculations and comparisons at the same level of trade. Normal Value at ex-factory level has been compared with the export price at ex-factory level of similar type/thickness of Float Glass wherever the data is available. Considering the normal

value and export price, determined as detailed above, the dumping margin comes as under:

S. No.	Country	Name of Exporter	Dumping Margin %
1.	Indonesia	M/s PT Mulia	46.52
2.	Indonesia	M/s PT Tensindo	54.88
3.	Indonesia	M/s PT Abdi Rakyat Bakti	79.02
4.	Indonesia	All other exporters.	79.02
5.	China	All exporters.	43.82

## F. INJURY

36. Rule 11 of Anti Dumping Rules reads as follows:

"Determination of Injury:

- i. In the case of imports from specified countries, the designated authority shall record a further finding that import of such article into India causes or threatens material injury to any established industry or materially retards the establishment of any industry in India;
- ii. The designated authority shall determine the injury to domestic industry, threat of injury to domestic industry, material retardation to establishment of domestic industry and a causal link between dumped imports and injury, taking into account all relevant facts, including the volume of dumped imports, their effect on price in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles and in accordance with the principles set out in Annexure II to these rules."

37. The principles for determination of injury set out in Annexure-II of the Anti-Dumping Rules lay down that:

- a. A determination of injury shall involve 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 like article and (b) the consequent impact of these imports on domestic producers of such products.
- b. While examining the volume of dumped imports, the said Authority shall consider whether there has been a significant increase in the dumped imports, either in absolute terms or relative to production or consumption in India. With regard to the effect of the dumped imports on prices as referred to in sub-rule (2) of Rule 18 the Designated Authority shall consider whether there has been a significant price under-cutting by the dumped imports as compared with the price of like product in India, or whether the effect of such imports is otherwise

to depress prices to a significant degree or prevent price increase which otherwise would have occurred to a significant degree.

### **38. Views of the petitioners**

#### **a) Increased imports from the subject countries**

- i. The imports from the subject countries in comparison to the total imports have increased drastically from 20.87% in 2000-2001 to 96.45% during the period of investigation. This drastic increase in imports, in absolute as well as relative terms, from subject countries is essentially because of imports coming at dumped price.
- ii. Imports from the subject countries in comparison to the total demand in the country imports have also increased from 1.71% in 2000-2001 to 3.32% during the period of investigation.
- iii. Imports from the subject countries have risen drastically even during the period of investigation. A quarter-wise analysis shows that the Oct-Dec 2001 quarter accounted for nearly 70% of the total imports from the subject countries during the period of investigation. It is apprehended by the domestic industry that the rate of increase has further aggravated in the subsequent period.

#### **b) Changes in Market Share Held by the Indian Producers**

The increase in the market share of the domestic industry has to be viewed in the context of the addition of the new capacity in the country and the fact that the share of the dumped imports from the subject countries have gone up drastically at the cost of imports from other countries.

#### **c) Evidence of lost contracts**

The complainant domestic industry tried its best to hold on to the customers. Yet the fact that 5874.67 MT (annualized) of dumped imports arrived into India during POI is adequate evidence that it lost potential customers.

#### **d) Output / Productivity & Capacity Utilization**

There has been a drop in the capacity utilization of the domestic industry to the extent of about 0.66% in the period of investigation over the preceding financial year. It would, therefore, be clear that the domestic industry's position has not undergone any significant change particularly in view of the fact that there is a drop in the capacity utilization.

e) Sales Volume & Value

The volume of sales by the petitioners went up during the period of investigation over the preceding financial year. This increase is almost entirely on account of production of Saint Gobain who started production in November 2000. It will be observed that the industry is realizing a higher price in the period of investigation as against the price in 2000-2001. However, because of the pressure on price from imports from subject countries, the domestic industry is not able to realize a fair price or a reasonable rate of return.

f) Inventories

The inventories have significantly increased from \*\*\* MT at the end of March 2001 to \*\*\*\* MT as on 31.12.2001, an increased of over 14%.

g) Employment

There has been no impact on the employment as we have made all attempts to sustain higher levels of production and capacity utilization. Further, injury to the domestic industry is not reflected in the employment figures as the Indian labour laws are rigid.

h) Wages

No impact for the reasons explained in para above.

i) Profitability

Dumping by China and Indonesia had a significant impact on the net sales realization by the domestic industry for the subject goods. To hold on to its market share, the petitioners had to compete with low priced offers / imports of subject goods from the subject countries. Due to the large scale dumping by the subject countries, the domestic industry while making some profits as a percentage of sales, has not been able to get any returns on its investments. It is significant to note here that float glass industry is highly capital intensive in nature and its profitability or otherwise can be best judged by the ROCE (Return on Capital Employed).

j) Return on Investment (Capital Employed)

It may be noted at the outset that float glass industry is highly capital intensive. The industry have invested an amount of Rs. \*\*\*\* per metric ton of installed capacity. This will require a minimum profit of over Rs. \*\*\*\* per metric ton at \*\*\*\*\*% level of operations whereas the current profit is as low as one seventh of the reasonable figure.

A comparison of the cost of sales and sales realization per metric ton shows that despite best efforts, because of dumping by the subject countries, the industry is nowhere near the desired profit.

k) Price Underselling

Despite best efforts to cut costs and streamline their operations, the domestic industry is not in a position to realize a reasonable price for their products. The landed value of the product under consideration both from China and Indonesia are much lower than the prices of domestic industry ought to have realized on the sales of the subject goods.

The injurious effect of this high level of price underselling has had a direct and deleterious effect on the financial performance of the domestic industry.

l) Price Undercutting

The effect of the injury to the domestic industry due to dumped imports is further accentuated by the fact that not only the subject goods are being undersold, the exporters from the subject countries are also indulging in price undercutting. The landed value (i.e. the CIF price plus landing charges plus handling charges plus basic customs duty) of the dumped imports has been much below the selling price of the domestic industry during the period of investigation.

m) Actual and potential negative effect on cash flows

The domestic industry has not been able to earn even nominal returns on the capital employed. Hence, there is a considerable impact on cash flows-coupled with the fact that the inventory levels in this industry is quite high.

n) Growth

Due to the nominal returns in the industry and continued dumped imports, the domestic industry is not in a position to make any new investments for expansion. There is no scope for any FDI with such low rates of returns in a capital-intensive industry.

**39. Views of exporters and importers:**

Views of M/s. Monika Exim International Ltd., Pune (an importer):

- i. Low volume of Chinese imports cannot cause injury to the domestic industry on account of undercutting or underselling.
- ii. Petitioners have compared their high priced best quality item with that of low priced lower quality imported item with the intention of getting Anti-Dumping Duty imposed, though, items are not alike. While it is not disputed that the two may be like articles within the definition of Anti-Dumping Rules, the two are not alike.
- iii. The manufacturers facilities were set up in the country with the best technology available and nearly Rs. 1600 crores have been invested in the industry during the last years. The products of the domestic industry may be far superior in quality and significantly higher cost of production. The domestic and imported products cannot be directly compared.
- iv. Excess investment in the Float Glass industry has caused injury, if any, to the Indian producers. The Float Glass producers are multi-national giants. To block the prospects of similar material being made available at competitive prices in the Indian markets from the smaller manufacturers in Indonesia and China, the domestic producers have formed a cartel which is a restrictive trade practice.
- v. The quantities of imports in terms of domestic production is negligible. The effect of price would be on quantity. However, reverse is the situation in the present case. The imports from subject countries have reduced to 3.32% from 9.15% in spite of increase in the demand from 100% in 1999-2000 to 118.18% during POI.
- vi. The domestic industry is hiding the fact that the price in the domestic market were brought down by one of the petitioners in the guise of seed marketing and the cartel does not exist during the first quarter of 2001.
- vii. The multi-nationals are controlling the whole world market.
- viii. The alleged import of 5874.67 MT as claimed by the domestic manufacturers is equal to just 4-days' production of the domestic producers. Such a small level of imports against the huge domestic production cannot cause a small scratch and there is no question of injury. Almost all the consumers in India are suffering in the hands of domestic manufacturers because of their cartel.
- ix. The capacity utilization of the existing producers has not come down and the capacity utilization has been controlled by the quota system fixed by cartel.
- x. The domestic industry has been able to achieve higher price realization and increase in volume of sales during POI. So, there can be no injury on this account.
- xi. It has been stated that only because of the pressure on prices from imports from subject countries the domestic industry does not able to realize a fair price or reasonable return. This is not true. The prices in the market are dictated by the Indian producers – not imports.

- xii. The increase in inventory of domestic industry is due to the new entrant M/s Saint Gobain India Ltd. as they were forced to maintain the minimum inventories to serve the market with all type of glasses they make. It is always necessary for the manufacturer to maintain all the items to serve the customer in a better way.
- xiii. If the financial results of the domestic producers are verified, it would be seen that there is a consistent increase in the sales, in the market share and profits. The petitioners have no competition at all due to the imports since the quantity of import in proportion to domestic production is less than 2%. There is no causal link between alleged sub-optimal profitability and declining imports. Float Glass has made a profit of 25 crores in the first quarter of 2002 and if the same trend continues the company will be earning profits of 100 crores in one year. Before the imports started, the domestic producers were making losses but with the starting of imports they have made huge profits.
- xiv. It is not true that the domestic industry is under pressure to bring down their prices. The fact is that prices have been increasing for last two years.
- xv. The petitioners are multi-nationals who have already brought the FDI and made cartel. The real domestic industry has already been wiped out without any expansion by the multi-nationals.
- xvi. There is no evidence of material injury to the domestic industry. All parameters like production, sales volume, capacity utilization, selling price, market share in demand, employment show positive trend. The profitability of the petitioners has increased over the years. The claim of the petitioner as regards Return on Investment must be examined in the light of their profitability. The Return on Investment has been positive and improving. The alleged price under selling must be seen over a longer period i.e. between 1999-2000 and investigation period, The alleged price underselling did not have any adverse impact on the domestic industry, nor could it prevent the domestic industry from improving its performance. These reasons are equally applicable in the case of price undercutting also.
- xvii. Cash flow of the petitioners could not have deteriorated. Cash flow is linked to cash cost and cash profits. Since the petitioners are making profits, the cash generation from the operations is bound to have increased.

**Examination by the Authority:**

40. The Authority has examined the information regarding various injury parameters as under:

**Imports from subject countries:**

The total imports from subject countries were 10272 MT in 1999-2000, 2036.11 in 2000-01 and 4406 MT during POI (9 months) or 5874 MT (annualized). Imports from subject countries grew by 188% during POI (annualized) over the previous year. There was overall decline in imports from subject countries during POI in comparison to year 1999-2000. However the share of imports from subject countries in the total imports grew to 96.45% during POI in comparison to the previous year share of 20.87% and in the year 1999-2000 of 67.75%. The Authority finds that there has been significant increase in the dumped imports from subject countries in absolute terms.

**Market share:**

Market share of imports from subject countries in the total demand for the subject goods has increased from 0.71% in 2000-01 to 1.67% during POI. Market share of the petitioner domestic industry in the total demand of subject goods has not declined during POI. It has increased from 38.37% during 2000-01 to 48.63% during the POI. However, the market share of imports from other countries in total demand has declined during the POI to 0.06% from 2.71% in year 200-01.

**Capacity Utilisation:**

There has been a marginal decline of 0.66% in the capacity utilization of the domestic industry during the POI as reflected in the table below:

Year	Capacity Utilisation (%)
1999-2000	76.48%
2000-2001	79.09%
April-December 2001	78.43%
Annualized	78.43%

(Indexed)

**Sales Volume:**

Sales volumes of domestic industry increased from \*\* in 2000-01 to \*\*\* in POI. This showed an increase of about 17% over the year 2000-01.

**Inventory:**

The inventory of domestic industry has increased by 14% at the end of December, 2001 in comparison to the previous year closing on March, 2001.

**Employment:**

There has been no impact on the employment level in the domestic industry.

### **Wages:**

There is no effect on the wages of the industry in view of the prevalent labour laws.

### **Profitability:**

The authority finds that one of the domestic producers has made some profits while the other producer continues to make losses. Overall, the domestic industry has made some profits during the year ended March, 2002.

### **Return on capital employed:**

The domestic industry has made some profits during the POI. However, the return on capital employed has been \*\*\*. This is considered very low considering the heavy investments of Rs.\*\*\* crores in the Float Glass Industry.

### **Price under selling:**

The authority has compared the Non-injurious price of the domestic industry with the landed value of imports and has found that there is significant price under selling as a result of dumped imports.

	<b>China</b>	<b>Indonesia</b>
NIP	***	***
Landed value	***	***
Under selling %	*** (+ve)	*** (+ve)

### **Price under cutting:**

In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree. The Authority has compared the average net sales realization of the domestic industry with the landed value of imports and have found that there has been very significant price under cutting. The imports were having significantly suppressing/ depressing effect on the prices in the domestic market, as the domestic industry has not been able to raise its selling price in view of the dumped imports.

	<b>China</b>	<b>Indonesia</b>
NIP	***	***

Landed value	***	***
Under cutting %	*** (+ve)	*** (+ve)

### **Actual and potential negative effect on cash flows:**

The domestic industry has not been able to earn even nominal returns on the capital employed. Therefore, there is a considerable impact on the cash flows of the domestic industry.

### **Growth:**

Due to very nominal returns on the investment and continued dumped imports, the domestic industry is finding it very difficult to make any new investment for expansion.

### **Cumulative assessment of injury:**

41. As per annexure-II (iii), in cases where imports of a product from more than one country are being simultaneously subjected to Anti-dumping investigation, the Authority is required to cumulatively assess effect of such imports, only when it determines that (a) the margin of dumping established in relation to imports from each country is more than 2% expressed as percentage of export price and the volume of the imports from each country is 3% of the imports of like article --- and (b) cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic article. The Authority has found that the margin of dumping in respect of each of the subject country is more than 2% and the volume of imports from each country is also more than 3%. The Authority has also found it appropriate to cumulatively assess the effect of imports of the subject goods on the domestically produced like article in the light of conditions of competition between the imported products and the domestically produced goods. The Authority has found that there is a cumulative effect of injury by imports of subject goods from subject countries on the domestic industry.

## **G. CAUSAL LINK**

42. As regards the impact of the dumped imports on the domestic industry the principle (iv) of Annexure-II of the Anti-Dumping Rules states:

"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 utilisation

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."

### **Examination and Findings of the Authority:**

43. The Authority has considered the views expressed by the petitioners and other interested parties as regards the causal link, which have been mentioned, in the preceding paragraphs. After examining the various economic parameters as above the Authority has come to the following conclusions:

- i. There has been an increase in imports of subject goods from subject countries in absolute terms.
- ii. The market share of the dumped imports from the subject countries has increased.
- iii. The selling price of the domestic industry increased during the POI as compared to year 2000-01. However, the same has been below the non-injurious price (NIP) on account of dumped imports.
- iv. The industry has suffered financial losses due to price undercutting by the dumped imports.
- v. The domestic industry has suffered injury due to price suppression. They have not been able to raise their selling price so as to realize a fair return on the investments as the landed value of the dumped imports has considerably depressed the selling price of the domestic industry.
- vi. The Authority concludes that the most significant cause of injury to the domestic industry has been the price under cutting and price under selling. As a result of lower landed value of imports of subject goods from subject countries, the domestic industry has not been able to realize a fair and reasonable price for its products. This has led to very marginal return on investment. The investments in the Float glass Industry are quite heavy and the low return achieved on the investment by the industry reflects the injury suffered by the industry.
- vii. The above economic parameters cumulatively and collectively establish that domestic industry has suffered material injury on account of dumping.

## **H. INDIAN INDUSTRY'S INTEREST**

44. The purpose of anti dumping duties in general is to eliminate dumping which is causing injury to the domestic industry and to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country.

45. The Authority recognizes that the imposition of anti dumping duties might affect the price levels of the user-industry using subject goods and consequently might have some influence on relative competitiveness of these products. However, fair competition on the Indian market will not be reduced by the anti dumping measures. 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 subject goods. The Authority notes that the imposition of anti dumping measures would not restrict imports from subject countries in any way, and therefore, would not affect the availability of the product to the consumers.

## I. CONCLUSIONS

46. The Authority has, after considering the foregoing, come to the conclusion that:

- i. Subject goods have been exported to India from subject countries below the normal value;
- ii. The domestic industry has suffered material injury;
- iii. The material injury has been caused by the dumped imports from subject countries;

47. The Authority considers it necessary to impose an anti dumping duty provisionally, pending final determination, on all imports of subject goods from subject countries in order to remove the injury to the domestic industry. The margin of dumping determined by the Authority is indicated in the paragraphs above. The Authority proposes to recommend the amount of anti dumping duty not exceeding the margin of dumping or the margin of injury whichever is lesser and which if levied, would remove the injury to the domestic industry. For the purpose of determining injury, the landed value of imports has been compared with the non-injurious selling price of the petitioner companies determined for the period of investigation.

48. Accordingly, the Authority recommends that provisional anti dumping duties be imposed from the date of notification to be issued in this regard by the Central Government on all imports of 'Float Glass of thickness 2 mm to 12 mm (both thickness inclusive) of clear as well as tinted variety (other than green glass) but not including processed glass meant for decorative, industrial or automotive purposes' falling under Chapter Heading 70.05 of Schedule I of Custom Tariff Classification originating in or exported from Indonesia and Peoples Republic of China pending final determination. The anti dumping duty shall be as in column 4 in the following table.

S. No.	Country	Name of Exporter	Anti-dumping duty US\$/MT
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1.	Indonesia	M/s PT Mulia	67.34
2.	Indonesia	M/s PT Tensindo	78.99
3.	Indonesia	M/s PT Abdi Rakyat Bakti	81.82
4.	Indonesia	All other exporters.	81.82
5.	China	All exporters.	82.18

49. Landed value of imports for the purpose shall be the assessable value as determined by the Customs under the Customs Act, 1962 and all duties of customs except duties under sections 3, 3A, 8B, 9 and 9A of the Customs Tariff Act, 1975.

## **J. FURTHER PROCEDURE**

50. 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, petitioner 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 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 provide opportunity to all the interested parties for making oral submissions which have to be rendered thereafter in writing; The Authority would conduct further verification to the extent deemed necessary;
- d. The Authority would disclose essential facts before announcing final findings.

**L.V. SATHARISHI**  
Designated Authority