

MINISTRY OF COMMERCE & INDUSTRY
DEPARTMENT OF COMMERCE
(DIRECTORATE GENERAL OF ANTI-DUMPING &
ALLIED DUTIES)

NOTIFICATION

NEW DELHI, The 8th August, 2003

PRELIMINARY FINDINGS

Sub: Anti-Dumping Investigation concerning imports of Plastic Ophthalmic Lenses from People's Republic of China and Chinese Taipei.

No.14/16/2002-DGAD - 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

The procedure described below has been followed with regard to the investigation:

- i. The Designated Authority (hereinafter also referred to as Authority), under the above Rules, received a written application from M/s Techtran Polylenses Limited, Hyderabad, a member of Indian Plastic Ophthalmic Lenses Association (IPLA), Karnataka (hereinafter referred to as petitioner) on behalf of the domestic industry, alleging dumping of Plastic Ophthalmic Lenses (hereinafter also referred to as subject goods) originating in or exported from People's Republic of China and Chinese Taipei (hereinafter referred to as subject countries). The petition is also supported by M/s Indian Plastic Ophthalmic Lenses Association whose other members are M/s Indian Ophthalmic Lenses Manufacturing Co. Pvt. Ltd., Karnataka and M/s Prakash Plastic Industries (Madras) Pvt. Ltd., Chennai.
- ii. Preliminary scrutiny of the application filed by the petitioner revealed certain deficiencies, which were subsequently rectified by the petitioner. The petition was, therefore, considered as properly documented.
- iii. The Authority on the basis of sufficient evidence submitted by the petitioner decided to initiate the investigation against imports of the subject goods from

- the subject countries. The authority notified the Embassies of People's Republic of China and Chinese Taipei in New Delhi about the receipt of dumping allegation before proceeding to initiate the investigation in accordance with the sub-Rule 5(5) of the Rules.
- iv. The Authority issued a public notice dated 27.8.2002 published in the Gazette of India, Extraordinary, initiating Anti-Dumping investigations concerning imports of the subject goods classified under Customs Code 9001.50 Schedule I of the Customs Tariff Act, 1975 as amended in 1995 originating in or exported from the subject countries.
 - v. The Authority forwarded a copy of the public notice to the known exporters (whose details were made available by petitioners) and gave them an opportunity to make their views known in writing within forty days from the date of the letter in accordance with the Rule 6(2):
 - vi. The Authority forwarded a copy of the public notice to all the known importers (whose details were made available by petitioner) of subject goods in India and advised them to make their views known in writing within forty days from the date of issue of the letter in accordance with the Rule 6(2).
 - vii. Request was made to the Central Board of Excise and Customs (CBEC) to arrange details of imports of subject goods made in India during the past three years, including the period of investigation.
 - viii. The Authority provided a copy of the petition to the known exporters and the Embassy of the subject countries in accordance with Rules 6(3) supra. A copy of the non-confidential petition was also provided to other interested parties, wherever requested.
 - ix. The Authority sent a questionnaire to elicit relevant information to the following known exporters/producers, in accordance with the Rule 6(4):
 1. M/s Wenzhou East Optical Glasses Co. Ltd., PR China
 2. M/s Wenzhou Wuzhou Group Co. Ltd., PR China
 3. M/s Wenzhou Mingda Optical Glasses Co. Ltd., PR China
 4. M/s Bin Shyh Enterprises Co. Ltd., Taiwan
 5. M/s Daily Glasses Enterprise Co. Ltd., Taiwan.
 6. M/s Y & S (Tianjin) Industries Ltd., PR China
 - x. The Embassies of the subject countries in New Delhi were informed about the initiation of the investigation in accordance with **Rule 6(2)** with a request to advise all concerned exporters/producers from their country to respond to the questionnaire within the prescribed time. A copy of the letter, petition and questionnaire sent to the known exporters was also sent to the Embassy of the subject countries in accordance with Rule 6(3).

xi. A questionnaire was sent to the following known importers/user associations of the subject goods in accordance with Rule 6(4):

1. M/s R.K. Optical Services, New Delhi
2. M/s Ajay International, Delhi
3. M/s Enterprise Trading Co., Delhi
4. M/s Indian Optics Private Ltd., Delhi
5. M/s Reflect Optics, Mumbai
6. M/s Prime Optics, Mumbai
7. M/s Unity Optics, Mumbai
8. M/s Patni Opticians, Mumbai

The last date of submission was 7th October 2002. On request of interested parties, extension of time was granted up to 1st November 2002.

Response/information to the questionnaire/notification was filed by the following exporters/producers:-

1. M/s Wenzhou East Optical Glasses Co. Ltd., PR China
2. M/s Wenzhou Wuzhou Group Co. Ltd., PR China
3. M/s Wenzhou Mingda Optical Glasses Co. Ltd., PR China
4. . M/s Y & S (Tianjin) Industries Ltd., PR China

Response/information to the questionnaire/notification was filed by the following Importers/user Associations.

1. M/s R.K. Optical Services, New Delhi
2. M/s Enterprise Trading Co., Delhi
3. M/s Indian Optics Pvt. Ltd., Gurgaon

None of the exporters/producers from Taiwan has responded.

- xii. 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 as per Rule 6(7).
- xiii. Cost investigation was also conducted to work out optimum cost of production and cost to make and sell the subject goods in India on the basis of Generally Accepted Accounting Principles (GAAP) and the information furnished by the petitioner.
- xiv. ****in this notification represents information furnished by interested parties on confidential basis and so considered by the Authority under the Rules.

- xv. Investigation was carried out for the period starting from 1st April 2001 to 31st March 2002 i.e. the period of investigation (POI).

B . VIEWS OF EXPORTERS, IMPORTERS AND OTHER INTERESTED PARTIES

1. PETITIONER'S VIEWS

a. PRODUCT UNDER CONSIDERATION

- i. The imported product is Plastic Ophthalmic Lenses, which are used in spectacles to correct Eye Vision of Human beings. These lenses are imported in finished, Uncut form, ready to mount in spectacle frames. The ITC (HS) classification of the products is 9001.50 which attracts peak Customs duty of 30% (2002 budget).
- ii. The lenses are made out of Bis Allyl Di-carbonate, generically known as CR-39 with Refractive Index of 1.498 and Abbe number of 50 plus. These lenses are basically modern day lenses substituting age old, glass lenses.
- iii. The product is under OGL.

b) DOMESTIC INDUSTRY

- i. The petition is filed by the Indian Ophthalmic Lens Association (IPOLA), 48 L&M, Kiadb Industrial area, Doddaballapur-561203, Bangalore, North Dist., Karnataka represented by its President. The members of the Association account for 90% of domestic Plastic Ophthalmic lenses production.
- ii. The annual production capacity of the member units:
 - a. TECHTRAN POLYLENSES LTD. 1,000,000 PAIRS (DTA Sale Entitlement of the 100% EOU)
 - b. INDIAN OPHTHALMIC LENSES 1,500,000 PAIRS MANUFACTURING CO. PVT. LTD.
 - c. PRAKASH PLASTIC INDUSTRIES 125,000 PAIRS (MADRAS) PVT LTD.
 _____ 2,625,000 PAIRS _____
- iii. The industry has installed production capacity much higher than the realized production

Manufacturer name	Installed capacity	Actual production or realized capacity
Prakash Plastic Industries	125,000 Pairs	125,000 Pairs (100%)
Techtran Polylenes Domestic Capacity	1,000,000 Pairs	464,139 Pairs (46.41%)
Indian Ophthalmic Lenses Manufacturing Co.	1,500,000 Pairs	750,000 Pairs (50%)

Total	2,625,000 Pairs	1,339,139 Pairs (51.00%)
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- iv. The average annual production value of the above three companies is approximately Rs.150 million.
- v. The member companies manufacture Single Vision and Bifocal lenses, similar to the imported products from Taiwan and China. The member companies also produce semi-finish products of Single Vision and Bifocal, even though the volumes are small.
- vi. None of the manufacturer member companies import any of the products and none of the member companies have any relation to the importers or exporters of dumped article.
- vii. There are only two other small plastic lens manufacturers in the country, who are not party to this complaint (1) reflect Optics, Doctor House, Mumbai and (2) Global Optics Pvt, Ltd., New Delhi

c) LIKE ARTICLE

- i. The Plastic Ophthalmic Lenses may be substituted by glass lenses, however, glass is inferior to Plastic in terms of safety, absorption of ultra violet radiation, customer comfort etc.
- ii. There are no material differences between the dumped products and products manufactured by the members. Both the products are made out of CR-39 or equivalent raw material, and is cast adopting polymerization. There may be slight difference in the initiators used. Polymerization cycle and process may vary from manufacturer to manufacturer.

i. DUMPING

As per the petition the extent of alleged dumping of the subject goods is as follows:

Year	Taiwan		China		Others	
	No. of pairs imported	CIF value per pair in Rs.	No. of pairs imported	CIF value in Rs.	No. of Pairs imported	CIF value in Rs.
2000-01	3,97,593	43.40	5,50,319	31.61	6,75,570	116.07
2001-02	6,23,534	14.65	8,72,400	30.43	6,58,946	103.14

* The imported products constitute 62% of domestic market share in 2001-02.

i. Estimates of Normal Value -Since the petitioners do not have access to the local selling prices of the dumped articles in the exporting countries, Taiwan and China, the computed normal value has been worked out by the petitioners as follows:-

a. Raw Materials: consumption of Monomer i.e. CR-39 or NS-200 would be approximately 24 grams/lens. The monomer suppliers world wide are PPG, U.S.A and Great Lakes Chemical Corp., Netherlands and their uniform price is US\$4.50 per kg.

Hence monomer cost Per pair of Lenses (Rs)= $2 \times 24 / 1000 \times \$4.5 \times 48.6 = \text{Rs.}5.25 \times 2 = \text{Rs.}10.50/\text{Pair}$

Initiator: Isopropyl Peroxide supplied by AKZO NOBEL, NOF JAPAN, ETC. The pure IPP price is \$60 per kg and IPP (PURE) is used 3% of the monomer weight.

Cost of Initiator per pair of lenses = $2 \times 24 \text{ grams} \times 3\% \times 1 \text{ Kg} / 1000 \text{ grams} \times \$60 \text{ (per kg)} \times 48.6 \text{ (Exch. Rate)} = \text{Rs.} 2.10 \times 2 = \text{Rs.}4.20/\text{Pair}$

Total raw materials cost per Pair = Rs.7.35X2= Rs.14.70 Pair

b. Stores and Spares including chemicals, gasket, glass moulds, mechanical and electrical supplies @ Rs. 4.00per lens = $\text{Rs}4.0 \times 2 = \text{Rs.}8.00 \text{ Pair}$

c. Power and Fuel: Approximately 0.8 to 0.9 KW power is required to manufacture one lens. Assuming the Power cost in China as 50% of Indian power cost, the power and fuel would be no less than Rs.1.60 per lens = $\text{Rs.}1.60 \times 2 = \text{Rs.}3.20 \text{ Pair}$

d. Wage Cost: IN a semi-automated plant, the productivity is approximately 40 lenses/makeshift. Assuming a low Chinese wage cost of 600 yuan per month per person or 3600 rupees/month (@6 Rs. Per yuan.)

Wage cost works out $3600 + (25 \text{ days/month} \times 40 \text{ lenses/man day}) + 3.6 \times 2 = \text{Rs}7.20 / \text{Pair}$

e. Packing and selling costs

Packing material : Rs1.50 /Lens

Misc. selling cost : Rs0.50/Lens

Total Rs2.00/Lens **Rs4.00/Pair**

f) Factory overheads and administrative costs approx. $3.0 \times 2 = \text{Rs}6.00/\text{Pair}$

Total Manufacturing cost before interest and depreciation **Rs43.10/Pair**

g) Interest **Rs10.10/Pair**

h) Depreciation **Rs.7.00/ Pair**

Constructed Normal value (As per the petition): Rs60.20/Pair

(vi) The average imported price to India for the last two years and the current year is listed here:-

(A) Import Price/Pair (CIF)

(Quantity in Pair) Source: DGCIS

	1999-2000	2000-2001	2001-2002
Chinese Taipei	52.42	43.40	14.65
China PR	41.88	31.61	30.43
Others	56.36	116.07	103.14

A. FOB Price computation of dumped goods:

The DGCIS statistics report the CIF price to Indian shore. To determine the FOB price, the costs involved in inland transportation, forwarding and port handling, ocean freight and Indian port delivery charges etc. are to be deducted.

	Rs/Pair
Inland transportation	1.00
Forwarding and port handling	1.00
Ocean Freight	3.00
Port-Delivery charges	1.00
Total	6.00

These expenses are assumed conservatively to be constant during the two-year period of review.

(C) Import Price Rs/Per Pair (FOB)

	1999-2000	2000-2001	2001-2002
Chinese Taipei	46.42	37.40	8.65
China PR	35.88	25.61	24.43
Others	50.36	110.07	97.14

Hence the Dumping Margin: 2001-2002

	Taiwan	China
Normal Value (in Indian Rs) per pair	60	60
Export price FOB (in Indian Rs.) per pair	8.65	24.43

Dumping margin (in Indian Rs.) per pair	51.35	35.57
Dumping Margin (%)	85.58%	59.28%

e) INJURY

The Following arguments have been extended by the petitioners towards provisional injury determination:

- i. The importers have flooded their products in Indian markets to the extent of 61.70%.
- ii. Total demand of Plastic Lenses for 2001-2002

a) Imports: Source: DGCIS

	Pairs	%
Chinese Taipei	623,534	17.8
China	872,400	25.0
Others	658,946	18.9

b. Domestic Sales

Techtran Domestic Sales	464,139	13.3
All other IPOLA members	875,000	25.0
Others	NIL	NIL
Total	3,494,019	100.0

- iii. While Taiwan and China imports have increased from 2000-2001 to 2001-2002 by about 60%, Techtran lost its sales by about 7.3% in the same period. Techtran was unable to reach even 50% of its eligible domestic capacity.

	2000-2001	2001-2002	Sales Volume % increase of (Decrease)
Techtran Polyllenses domestic sales	500,763 Pairs	464,139 Pairs	(7.3%)
Taiwan	397,593 Pairs	623,534 Pairs	57%
China	550,319 Pairs	872,400 Pairs	59%

- iv. The domestic units were making losses or barely breaking even in expanding market. Some of the units are closed or sold out under economic distress.
- v. The imports from Taiwan and China are increasing year after year, while the import prices have gone down since these countries are dumping the products below their costs of production. The plastic lenses are imported into India at the lowest price in the world.
- vi. The domestic units are not able to compete the ridiculous (below raw material cost) prices and are forced to find export markets or shut down.

- vii. One domestic unit set up by SRF has incurred heavy losses and could not operate economically resulting in distress sale to a multi-national subsidiary, Indian Ophthalmic Lenses Manufacturing Co. Pvt. Limited. The reorganized unit is functioning at reduced capacity. Techtran Polylenses Ltd. is struggling to service the debt burden and continues to remain as non-performing asset to the financial institutions. Forbes Gokak Ltd., a TATA subsidiary, had set up a plastic lens manufacturing facility at Aurangabad and closed after incurring accumulated losses of Rs.70 crores and loss of employment of some 250 person.
- viii. It is the firm belief in the industry that the imports from China and Taiwan are under-invoiced to evade Customs duty and resulting low imported cost. The country loses out on Customs duty revenue and also on the industrial front by the failures of domestic units (invested capital, employment, revenue base etc). In year 2001-2002, Techtran alone has paid Rs.82.80 lakhs duties (at 50% of import duty) on domestic sales 464,139 pairs whereas Taiwan imports got by, paying Rs.107 lakhs on imports of 872,400 pairs. These facts prove beyond doubt the common belief of unscrupulous, under invoiced imports.
- ix. The landed value from Taiwan and China in 2001-2002 are 25.84 per pair and 30.89 per pair respectively.
- x. The demand of Plastic Ophthalmic Lenses in India has been increasing but virtually all the growth in demand is stolen by unscrupulous imports, dumping below cost or suppressing the cost of sale.
- xi. Selling Prices/Pair (FOB)

	1999-2000	2000-2001	2001-2002
Taiwan	Rs.46.42	Rs.37.40	Rs8.65
China	Rs.35.88	Rs.25.61	Rs24.43
Others	Rs.50.36	Rs.110.07	Rs97.14

xii. Comparison of other importing countries

	1999-2000	2000-2001	2002
All other countries Sales volume (in pairs)	1,135,515	675,570	658,946
Average selling price of all other countries (in Rs/pair) CIF	56.36	116.07	103.14

In summary, the domestic industry has contended that the Chinese and Taiwanese products are exported in India at a price much lower than the normal value (in some cases below the cost of raw materials) and thereby causing injury to domestic industry in terms of sales volume loss, lower capacity utilization and shut down of certain units. The dumping margins are very high with respect to these countries.

f) GENERAL ISSUES

(i) Glass Lenses Impact

Even though glass lenses compete in the total ophthalmic lens market, they do not cause any injury to the plastic lens since the plastic lens market share in India is increasing and plastic lenses replace glass as it happened in developed countries. Plastic lenses are superior, modern product and enjoy safety and health benefits over glass lenses. Glass lenses are not hurting plastic lens industry but the plastic lens imports dumped at, below cost prices are causing injury to domestic industry from getting fair share of growing domestic market

(ii) Classification of goods

Article Code 9001.50.00 is for "spectacle lens of other material". Glass lenses are under article Code 9001.40.00 and hence spectacle lens of other material constitute plastic lenses of spectacle only since no other material is used for making spectacle lenses.

1. IMPORTER'S VIEWS

1. M/S Enterprise Trading Co.

- i. Only CR 39 lenses are covered under the scope of investigation whereas Acrylic lenses are made from different manufacturing process viz. injection moulding and different raw material and, therefore, are not within the purview of investigation.
- ii. The Normal Value on the basis of raw material consumption and other costs would come to ****\$/pair ex-factory export price as ****\$/pair evidencing no dumping.
- iii. Other types of Lenses like Polymethyl Methacrylate (PMMA) lenses, Polycarbonate lenses, specialty lenses like anti-reflection multi coating, hydrophobic coating, anti-EMI coating and anti-scratch coating lenses are not manufactured by the domestic industry and that reliance is placed on the Hon'ble CEGAT's judgement in case of Birla Periclase Vs. Designated Authority.
- iv. There is no injury caused to the domestic industry.
- v. M/s Techtran is 100% EoU and that their cost of production cannot be relevant for domestic sales. Thus information of M/s Techtran should not be taken into account.

1. M/s R.K. Optical Services

- i. That they have not imported any of the CR 39 lenses during the period of investigation and have mainly imported Acrylic Lenses.

1. M/s Indian Optics Pvt. Ltd.

- i. They are manufacturer of both plastic and glass lenses but also import special type of lenses with unique application from China, Singapore and Indonesia.
- ii. CR-39 lenses are made from ADCA/NS 200 while Acrylic lenses are made from Polymethyl Methacrylate (PMMA).
- iii. The process for CR-39 lenses and Acrylic lenses are different as the first one is produced by the casting process and the second one is produced by the injection moulding process.
- iv. The refractive index of the different type of plastic Ophthalmic/Spectacle lenses are 1.498 for CR-39 and Acrylic Lenses, 1.56, 1.60, 1.523, 1.67, 1.58 are the other refractive indexes for the Plastic Ophthalmic Lenses, 1.58 for Polycarbonate lenses.
- v. They do not oppose antidumping Duties on the plastic CR-39 -1.49 lenses but oppose the anti dumping duties on any other specialty lenses, which are not manufactured by the domestic producers. These are anti-reflection multi coating, hydrophobic coating, anti-EMI coating and anti-scratch coating lenses. The domestic producers have only capacity for anti-scratch coating/Hard coating.
- vi. They support fixing of a minimum export price for plastic Ophthalmic lenses CR-39 but excluding the specialty lenses.

d) Other Importers i.e. M/s Unity Optics, Mumbai and M/s Prime Optics, Mumbai have mentioned that they have not imported CR-39 type lenses from PR China and Taiwan.

3. EXPORTER'S VIEWS

1. M/S Y &S(TIANJIN) INDUSTRIES LTD., PR CHINA

- i. M/S Y &S(Tianjin) Industries Ltd. have provided the CIF price of the Monomer used as *****/MT and the price of IPP used as *****/MT procured from the local sources and has claimed that their production cost is much lower because of lower cost of the raw material as above.
- ii. It has been submitted that CR 39 and Acrylic Lenses are not like article and only CR 39 lenses are covered. Domestic industry has not produced nor has the capacity to produce the Acrylic lenses.

- iii. The normal value of the exporter as indicated on the basis of the total cost of production as ****\$/pair in stead of ****\$/pair as claimed by the petitioner. The exporter has indicated various reasons for claiming the cost of production.
- iv. The exporter has also offered for verification and has indicated that they are operating as per the market principles.

2. M/S WENZHOU WUZHOU GROUP CO. LTD., PR CHINA (WUZHOU)

- That Wuzhou is a private Limited company incorporated and registered in the People's Republic of China in 2001 and is an exporter of Plastic Ophthalmic Lenses. Wuzhou is a market economy company. There is no State/Government control of Wuzhou. Wuzhou does not receive any subsidies and maintains its accounts consistently in accordance with international norms/practice.
- The decision of Wuzhou with respect to prices are made in response to market signals reflecting supply and demand and the costs of the inputs reflect market values.
- There is no distortion of production costs and financial situation as Wuzhou is an entirely private company as described in the response to the questionnaire and accompanying confidential information.
- Wuzhou states that it is not a manufacturer and thus does not have any domestic sales and does have a license to import or export and has exported the subject goods to India or other countries thereafter during a portion of the period of investigation i.e. from 1st April, 2001 to 31st March, 2002.
- Plastic Ophthalmic Lenses manufactured in China and exported by Wuzhou are generally called Acrylic Plastic Lens (PMMA) while the category of subject goods manufactured and sold in India by the said applicant are generally called Hard Resin Lens (CR 39). Acrylic Plastic Lens are not suitable for therapeutic or correctional purposes.
- There is no Domestic Industry in India of the category of like articles subject goods exported by Wuzhou, i.e. Acrylic Plastic Lens.
- The ex factory price during the POI of the subject goods exported by Wuzhou to India at an average of US\$ **** per pair that is at the average third country export price, as below during the POI.
- Chinese manufacturers enjoy tremendous economies of Scale, as a result of clustered and consolidated production of the subject goods, high capacity and capacity utilisation, inexpensive raw materials and labour, no man days lost during the POI due to labour unrest or any force majeure or input supply constraints, inexpensive and efficient logistics and infrastructure and economies in freight and handling. The subject goods are mainly targeted for the relatively lower income market segments and not at the affluent market segments.

- There are a number of differences between the category of subject goods produced and sold in India by the applicant and the category of subject goods exported to India by Wuzhou.
- The goods produced with CR39 and those produced with PMMA are completely different although both of them are classified into the Classification number of 9001.50 – Spectacle lenses of other materials.
- Products made from CR-39 are generally called Hard Resin Lens (CR-39) while those made with PMMA are called Acrylic Plastic Lens (PMMA).
- The subject goods manufactured and exported by Wuzhou are neither technical nor commercial substitutes for the subject goods manufactured by the applicant domestic industry and thus are not like article with the subject goods manufactured by the applicant domestic industry.
- Glass was in the past the material used for sheets because of its chemical structure and scratch resistance. Transparent plastic materials like PMMA, PC, CAB have replaced glass in many applications mainly because of their lighter weight, better impact resistance and workability. But these materials do however show some disadvantages compared to glass, like a poor chemical resistance, poor scratch resistance, or aging problems, all of which result in loss of mechanical and optical properties, micro-cracking, hazing as well as other problems while in use.
- Materials including PMMA do not always provide a fully satisfactory alternative to glass and, in many applications, the quality and performance of expensive equipment and instruments is compromised by the poor performance of their transparent plastic parts.
- CR-39 (Hard Resin lenses) offer the combined benefits of Plastic materials and glass. The Hard Resin optical quality cast sheets are resistant to scratch, impact stress cracking, solvents, chemicals, gamma radiation, welding sparks pitting and aging. They will maintain their properties for many years through a variety of difficult environments and conditions of use, where other materials may only last a few days or months.
- The respective applications of PMMA and CR-39 are different.
- Hard Resin use are constantly growing in sophisticated scientific, aerospace and nuclear applications like determination of radon concentration, research for magnetic monopoles (Macro experiment at Laboratori Nazionali del Gran Sasso), biological experiment on effect of the light on vegetable and animals and cosmic and nuclear track detectors in aerospace application.
- As per the said application the sources of raw materials are as follows:-

"The monomer suppliers world-wide are PPG, U.S.A. and Great Lakes Chemical Corp., Netherlands.

- The PMMA industry in Asia and even world-wide is dominated by a handful of players including ICI Acrylics Inc, BASF and Elf Atochem. The PPG and Great Lakes Chemical Corp are CR-39 supplier but not PMMA.
- The price of the PMMA purchased for production of Chinese manufacturers is just US\$1.6 per kg as they are completely different.
- There are differences in respective manufacturing process, raw materials and moulds between the Acrylic Plastic Lens (PMMA) and the Hard Resin Lens (CR-39).
- The production process of Hard Resin Lens (CR-39) is more complex to achieve higher specifications and would involve higher costs and chances of a higher rejection rate.
- The normal value of the subject goods determined on the use of raw material CR-39 is not representative for all kinds of the subject goods.
- Subject goods manufactured from PMMA may thus be excluded from the scope of the present investigation.
- All third country export sales of the subject goods in China by Wuzhou during the POI were in the ordinary course of trade and the confidential data therefore has been filed along with the confidential response to the questionnaire.
- There is no dumping of the subject goods from China by Wuzhou as alleged at all and thus the present investigation may be terminated.

INJURY AND CAUSAL LINK

- Since the applicant neither produces, nor sells the like article/subject goods there can be no injury to the applicant with respect to a category of goods not produced by it.
- During the POI and also the preceding year the profits, production and capacity utilisation of the said applicant have risen while inventories have declined. Prima facie there is no evidence of material injury to the said applicant.
- Issue of Causal Link arises only in case dumping of like articles is proven and if any material injury is shown.
- The Applicant has relied on inadequate and inaccurate estimates of data for the last 4 months of the POI.
- The applicant has not taken cognizance of the economic slow down in India during the POI.
- The applicant has disclosed that during the POI its profits increased which would be unlikely in case of any price suppression. Thus there is no price depression/suppression as alleged without substantiation.

3. M/S WENZHOU EAST OPTICAL GLASSES CO. LTD. PR CHINA (EAST)

- East is a private Limited company incorporated and registered in the People's Republic of China in 2001 and is a manufacturer of Plastic Ophthalmic Lenses. East is a market economy company.
- The ex-factory price during the POI of the subject goods exported by East to India at an average of US\$ **** per pair that is at or within a de-minimus range of the average domestic sales price, as above, during the POI.
- The cost of production during the POI at an average of US\$**** per pair across models and is less than the domestic sales price, as stated above, during the POI.
- All domestic sales of the subject goods in China by manufacturer during the POI were in the ordinary course of trade and the confidential data therefore has been filed. The normal value may be determined on the basis of the domestic sales price of the subject goods in China during the POI and this would show that there was no dumping as alleged or a dumping margin within a de-minimus range.
- POI is from 1st April 2001 to 31st March, 2002. It is submitted that the selection of the POI is flawed as the applicant has, relied only on estimates for the final 4 months and thus prima facie has not furnished any adequate or accurate data for the entire POI.
- The capacities mentioned are below the international economies of scale and less than the capacity of East. The capacity of the said applicant refers to D.T.A and thus the said applicant has capacity committed for exports.

4. M/S WENZHOU MINGDA OPTICAL GLASSES CO. LTD., PR CHINA (MINGDA)

- Mingda is a privately owned limited company and is a manufacturer of Plastic Ophthalmic Lenses. Mingda has furnished the relevant confidential data in the confidential response.
- The decisions of Mingda with respect of prices, costs and inputs, including raw materials, cost of technology and labour, output, sales and investment, are made in response to market signals reflecting supply and demand and the costs of the inputs reflect market values.
- Mingda is subject to China's Bankruptcy Laws/winding up proceedings and there have been of bankruptcies/closures in China of similar firms/companies.
- As in India the exchange rate is based on the market rate as determined by the China Central Bank as is reflected in the confidential data furnished along with the said confidential response to the questionnaire.
- Mingda states that it does not have the license to import or export and has not exported the subject goods to India or other countries during the POI i.e. from 1st April, 2001 to 31st March, 2002. Mingda states that it has, inter alia, sold

the subject goods to exporters, who possess the required license to export and that such sales are treated as Mingda's domestic sales of the subject goods and is providing some confidential data with respect to the exports to India of the above mentioned exporters during the said POI in the relevant confidential appendices to the confidential response to the Questionnaire.

- M/s East and M/s Mingda have reiterated the views as submitted by M/s Wuzhou on the issue of Like Article

C. EXAMINATION BY AUTHORITY

The foregoing submissions made by the exporters, petitioner, importers and other interested parties, to the extent these are relevant as per Rules and have a bearing upon the case, have been examined, considered and dealt with at appropriate places in these findings.

1. PRODUCT UNDER CONSIDERATION

The Authority notes that the petition has been filed by M/s Techtran Polylenses Limited, Hyderabad, a member of Indian Plastic Ophthalmic Lenses Association (IPOLA), Karnataka on behalf of the domestic industry, alleging dumping of Plastic Ophthalmic Lenses (hereinafter also referred to as subject goods) originating in or exported from People's Republic of China and Chinese Taipei. The petition is also supported by M/s Indian Plastic Ophthalmic Lenses Association whose other members are M/s Indian Ophthalmic Lenses Manufacturing Co. Pvt. Ltd., Karnataka and M/s Prakash Plastic Industries (Madras) Pvt. Ltd., Chennai. The petitioners to the current investigation are manufacturing and selling plastic ophthalmic lenses manufactured out of CR39. The lenses manufactured by the petitioners are made out of Bis Allyl Di-carbonate, generically known as CR-39 with Refractive Index of 1.498 and Abbe number of 50 plus. These lenses are basically modern day lenses substituting age old, glass lenses.

The Plastic Ophthalmic Lenses are used in spectacles to correct Eye Vision of Human beings. These lenses are imported in finished, Uncut form, ready to mount in spectacle frames. The ITC(HS) classification of the products is 9001.50 which attracts Customs duty of 30%(2002 budget). The product is under OGL.

There are also other plastic materials from which lenses are manufactured for various purposes, including ophthalmic lenses. Therefore, the initiation notification covered all type of plastic ophthalmic lenses for the purpose of investigation. However, representations have been received from the interested parties to exclude certain type of plastic lenses, not manufactured by the domestic industry and having different

properties as well as end use, from the scope of current investigation. The Authority in this regard notes the submissions made by various importers/exporters regarding the exclusion of Acrylic lenses manufactured out of Polymethyl Methacrylate (PMMA) and other lenses viz. Polycarbonate and specialty lenses like anti-reflection, multi-coating, hydro-phobic coating, anti-EMI coating and anti-scratch coating lenses. It has been mentioned by various interested parties that the acrylic lenses are different from CR 39 since they are produced by the injection moulding process, whereas CR 39 is manufactured by casting process. Also there is significant price difference in the two types of lenses as the cost of production is different. It has been mentioned by various interested parties that the petitioners have filed the petition specific to CR 39 lenses, which are used for correcting, vision only. It has been submitted that the acrylic lenses made from PMMA lenses are used mainly for sunglasses and have technical properties different from that, which are possessed by CR 39.

As regards specialty lenses like, anti-reflection, multi-coating, hydrophobic coating, anti-EMI coating and anti-scratch coating, the Authority notes that anti-scratch/ hard lenses only are made by Domestic Industry and not the other types. However unlike Acrylic lenses which are stated to have different end use, no argument on these not being like article to CR 39 lenses, has been advanced nor any quantification on adjustments on account of special features has been made.

However, the authority notes that all plastic lenses are being imported under the Customs tariff number 9001.50, meant for spectacle lenses, which otherwise means prescriptive lenses used for corrective use. That being the cases, it appears that plastic lenses manufactured out of PMMA can also be used, and are being imported, as prescriptive lenses to compete with CR 39 lenses. Therefore, it would not be proper to completely exclude the plastic lenses made out of PMMA from the scope of the current investigation. Accordingly, pending verification of the product exported by these exporters and their technical and commercial substitutability, the PMMA lenses are included within the product under consideration, for the purpose of preliminary determination, pending final determination.

Therefore, the Authority holds that this investigation covers "**Plastic Ophthalmic Lenses viz. CR 39 lenses also called Hard Resin Lenses or equivalent, used for correcting vision**". These lenses are in finished, uncut form, ready to mount in spectacle frames. These are made out of Bis Allyl Di-carbonate, generically known as CR-39 or equivalent. These lenses are the modern day lenses substituting age old, glass lenses. These are classified under the Customs Head 9001-50 and can be imported under OGL with the basic Customs duty of 30% during the Period of Investigation. The Authority notes the claim of the interested parties that acrylic lenses produced by PMMA and Polycarbonate lenses which are used in non-prescriptive usage such as sunglasses are not interchangeable and substitutable with

CR 39 lenses, which are used for prescriptive vision correction purpose. However, issue of exclusion of these products from the scope the product under consideration will be addressed on verification of their interchangeability and substitutability.

The specialty lenses like anti-reflection multi coating, hydrophobic coating, anti-EMI coating and anti-scratch coating are however, within the scope of the product under consideration for the purpose of preliminary determination pending verification and final determination.

2. LIKE ARTICLE

Article 2.6 of the Agreement on Antidumping defines 'like article' as: "a product which is identical, i.e. alike in all respects to the product under consideration or in the absence of such a product, another product which, although not alike in all respect; has characteristics closely resembling those of the product under consideration". Identification of 'like article' in the exporting country is required for determination of the normal value of the product in the ordinary course of trade in that country.

The petitioners have claimed and Authority notes that the goods produced by them are like article to the goods produced, and exported from the subject countries. CR 39 lenses have been imported, at least from PR China, manufactured by one of the co-operating exporters i.e. M/S Y & S (Tianjin) Industries, and for this category interchangeability of domestically produced goods and those exported has not been disputed. Other three responding exporters i.e. Wenzhou East, Wenzhou Group and Wenzhou Mingda have indicated that they produce and export goods manufactured out of PMMA, which is, both technically and commercially different from the corrective lenses manufactured by the petitioners from CR39. Therefore, they have claimed that their products are not technically and commercially substitutable or interchangeable with the product manufactured by the petitioners. Considering these submissions the authority has confined this investigation to prescriptive/ corrective plastic ophthalmic lenses made out of CR 39 and equivalent only. However, the authority notes that Acrylic lenses and lenses made out of other materials (other than CR 39) have also been imported under Customs tariff head 9001.50.00 (which is basically for spectacle lenses and excludes sunglasses and other non-ophthalmic glasses, which are covered elsewhere). Therefore, the contention of the three exporters from China that they are producing and exporting PMMA lenses only, and that the lenses exported/imported by them are not used for corrective ophthalmic use, does not appear to be entirely correct.

The Authority, in view of submissions made by other interested parties, and keeping in view the substitutability and interchangeability of the goods from subject countries and those produced by the domestic industry, considers the subject goods exported

and domestically produced subject goods as like article as per Rule 2(d) for the purpose of preliminary determination pending final determination.

3. DOMESTIC INDUSTRY

The petition has been filed by M/s Techtran Polylenses Limited, Hyderabad, a member of Indian Plastic Ophthalmic Lenses Association (IPOLA), Karnataka on behalf of the domestic industry, alleging dumping of Plastic Ophthalmic Lenses (hereinafter also referred to as subject goods) originating in or exported from People's Republic of China and Chinese Taipei (hereinafter referred to as subject countries). The petition is also supported by M/s Indian Plastic Ophthalmic Lenses Association whose other members are M/s Indian Ophthalmic Lenses Manufacturing Co. Pvt. Ltd., Karnataka and M/s Prakash Plastic Industries (Madras) Pvt. Ltd., Chennai.

The Authority also notes that M/s Techtran Polylenses Ltd along with the other petitioners accounts for almost 90% of the total domestic production (on the basis of domestic sales entitlement of Techtran and production capacity of other petitioners) and therefore, have the standing to file the petition on behalf of the domestic industry as per Rule 5 (3) (a) and (b) of the Anti-Dumping Rules and also represent Domestic Industry in terms of Rule 2(b). The fact that M/s Techtran is an 100% Export Oriented Unit (EOU) does not exclude them for the scope of the domestic industry as per Rule 2(b). The fact that as per the Exim policy of the country this manufacturer was permitted to sell the goods in Domestic Tariff Area (DTA) and also that domestic sales of the subject goods have been made by them in Period of Investigation, qualifies them to be a part of the Domestic Industry as per Rule 2(b). Even if, the argument of the opponent to the Petition that M/s Techtocam Polylenses Ltd., being a 100% EOU is accepted, the production capacity of the other two Petitioners supporting the Petition qualified the standing requirement. In such a situation, the DTA sales entitlement of the 100% EIOU will be ignored both from domestic capacity as well as production side and other two producers with combined production capacity of 1.625 million pairs will constitute more than 50% of the domestic production and, therefore, conform to the standing requirement. Therefore the Authority concludes that the petitioners have the standing to file the petition on behalf of the domestic industry.

4. NORMAL VALUE & EXPORT PRICE

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);

Provided that in the case of import of the article from a country other than the country of origin and where the article has been merely transshipped through the country of export or such article is not produced in the country of export or there is no comparable price in the country of export, the normal value shall be determined with reference to its price in the country of origin.

The normal value and ex-factory export price determination is illustrated below.

NORMAL VALUE

PR CHINA

1. M/s Wenzhou East Optical Glasses Co. Ltd., M/s Wenzhou Wuzhou Group co. Ltd. and M/s Wenzhou Mingda Optical Glasses Co. Ltd.

In respect of the producers/exporters, viz. M/s Wenzhou East Optical Glasses Co. Ltd., M/s Wenzhou Wuzhou Group co. Ltd. and M/s Wenzhou Mingda Optical Glasses Co. Ltd., the respondents claim and Authority notes that they have exported PMMA manufactured Acrylic lenses which have a different manufacturing process than of CR 39 type of lenses. The cost and price of two types of lenses vary significantly and also the usage of these two lenses are in different end use segments. While examining various submission by interested parties on the question of like article for the purpose of this investigation and specifically the issue of inclusion or exclusion of other lenses (other than CR 39) within the scope of this investigation, the authority noted that Customs Tariff Item No 9001.50,00 under which most of the imports from the subject countries have taken place reads as " Spectacle lenses of other materials". This inter alia means that any lenses made out of other than glass and capable of being used as spectacle lens gets covered under this tariff number. The contention of these exporters and the importers have been that the PMMA lenses are

inferior in quality to CR 39 lenses and are generally used for sunglasses. If that is the case, the imports of PMMA lenses should have been covered under tariff number 9004.10.00 and not under 9001.50.00. But the DGCIS data shows substantial imports under tariff number 9001.50.00. Therefore, the contention of these exporters that they have exported only PMMA lenses and not CR 39 lenses during the POI needs to be subjected to verification. Moreover, there is no evidence on record to prove that the lenses exported by these exporters to India are manufactured out of PMMA and not CR 39. The authority therefore, holds the goods exported by these exporters as like goods for the purpose of preliminary determination and proceeds to determine the normal value.

The Authority also notes that the above producers/exporters have indicated that they are operating on the market economy principle. These exporters have responded to the specific questionnaire in this regard.

M/s Wenzhou East Optical Co Ltd.

The exporter has claimed that there is no restriction on import of raw materials and PMMA is procured from Sumitomo Chemicals, Singapore. The other raw materials are procured from the local sources through long-term contracts and the utilities are procured from local utilities providers at market rates. The exporter has not submitted any published balance sheet and audited documents to substantiate that the company operates under market economy principles. As far as other parameters for determination of market economy status of the company is concerned the respondent has submitted copies of various laws of PR China. But the extent and manner in which these laws are being implemented and followed can not be corroborated from the response filed, without verification. The Authority in this regard recalls the provisions of non-market economy as indicated in the Anti Dumping Rules read with Custom Notifications No. No.44/99(N.T.) dated 15th July, 1999, 28/2001(N.T/) dated 31st May, 2001 and 1/2001(NT-Customs dated 4th January, 2002. Moreover, the invoices of exports to India do not indicate the base material of the lenses exported. It is therefore difficult to conclude that the lenses exported were made out of PMMA. Moreover, data on cost of raw materials and manufacturing cost provided by the exporter has not been corroborated with documentary evidence. Therefore, pending final verification and finding, the authority holds that the exporters have failed to rebut the presumptions that they operate in non market economy conditions and proceeds to construct the normal value on the basis of facts available. The constructed normal value has been worked out as ****\$/pair for the purpose of preliminary determination pending final determination.

M/s Wenzhou Mingda Optical Co. Ltd.

This is a manufacturing company having no licence to export or import and its products are exported to India through M/s Wenzhou Wenzhou Group Co. Ltd. They have also responded to the specific questionnaire on market economy status and informed that they source all their raw materials from domestic producers or dealers by long term contracts or from spot market. Other responses as far as cost of production and market orientation of the company are similar to the response filed by M/S Wenzhou East and therefore, not repeat herein. The respondent has produced only copies of various laws of PR China to prove that the company is market driven, without corroborating with its own published documents. Therefore, in view of their failure to rebut the presumption of non-market market condition as stated above, the Authority proceeds to construct the normal value as per the facts available. The constructed normal value has been worked out as ****\$/pair for the purpose of preliminary determination pending final determination.

M/s Wenzhou Wenzhou Group Co. Ltd.

This being a trading company, exporting goods manufactured by the other two companies and relied on the cost data of these companies. As the normal value for the manufacturers concerned are being constructed, the same will also be applicable to this exporter also.

Export prices

The Authority has referenced the export price on the basis of the response given by the Importer of subject goods during the period of investigation. The Authority has allowed adjustments on inland freight, ocean freight, port expenses, commission and other expenses to an extent of ****, ****, ****, **** and **** \$/pair respectively on the basis of data provided by the exporter and the importer. Adjustment on commission has been considered to an extent of ****% as the goods has been exported through a trading house.

The ex-factory export price comes to ****\$/per pair.

M/s Y &S (Tianjin) Industries Ltd., PR China

Normal Value

The Authority notes that the producer has exported CR-39 lens during the Period of Investigation and agreed to co-operate in the investigation process. The producer has provided the cost of production details but has not provided the domestic selling prices of the subject goods during the period of investigation. The Authority notes that the producer has also indicated that they are operating on the market economy

principle but they have not provided any specific evidence to this effect, specifically in respect of the four parameters as stipulated in the Anti Dumping Rules read with Customs Notifications No. No.44/99(N.T.) dated 15th July, 1999, 28/2001(N.T/) dated 31st May, 2001 and 1/2001(NT-Customs dated 4th January, 2002. The exporter has also not responded to the specific questionnaire sent to it seeking information on its Market Economy status. The Authority in this regard also notes that in cases of exports of Steel Concrete Reinforcing Bars by PR China to USA dated 22.6.2001, exports of Bicycles by China to EU dated 30.6.2001 and exports of non-frozen apple juice concentrate by China to EU dated 13.4.2002 China has been treated as non-market economy. The Authority however, notes that the exporter has provided the international raw material prices for the use in the manufacture of the subject goods and the evidence regarding the appropriate packing cost for the subject goods. In view of the failure of the exporter to rebut the presumptions of non-market condition as explained above, the Authority has proceeded to construct the normal value in respect of this exporter. However, the cost elements of the raw material provided by the exporter has been considered and the other cost components as provided by the domestic industry has been taken for appropriately constructing the cost of production of the subject goods during the period of investigation for referencing the normal value. The cost of production details have been considered on the basis of the cost of production of the subject goods in India in accordance with the Anti Dumping Rules read with Custom Notifications No.44/99(N.T.) dated 15th July, 1999, 28/2001(N.T/) dated 31st May, 2001 and 1/2001(NT-Customs dated 4th January, 2002. The Authority has therefore constructed the normal value as ****\$/pair for the purpose of preliminary determination pending final determination.

Export Price

The Authority has referenced the export price on the basis of the response given by M/s Enterprise Trading Company, the Importer of subject goods during the period of investigation. The Authority has allowed adjustments on inland freight, ocean freight, port expenses, commission and other expenses to an extent of ****. ****, ****, **** and **** \$/pair respectively on the basis of data provided by the exporter and the importer. Adjustment on commission has been considered to an extent of ***% as the goods has been exported through a trading house.

The ex-factory export price comes to ****\$/per pair.

B. ASSESSMENT OF NON-COOPERATING PRODUCERS/EXPORTERS FROM PR CHINA

Normal Value

None of the exporters/producers other than the exporters stated above from PR China have responded. Out of the responding parties only one exporter i.e. M/S Y &S(Tianjin) Industries Ltd., PR China has provided certain data on CR 39 lenses and others have claimed that they manufacture and export PMMA lenses only. The Authority has therefore, referenced the constructed normal value as adopted for the co-operating producer for these exporters/producers as well.

The normal value is therefore referenced as ****\$/pair.

Export Price

The Authority has considered the least export price from the response provided by the importer viz. M/s Enterprise Trading Company for these exporters/producers. The least CIF price for these as per the importer's response is ****\$/per pair. The adjustments have been provided on inland freight, ocean freight, port expenses, commission and ocean insurance to an extent of ****, ****, ****, **** and ****\$/pair respectively.

The ex-factory export price comes to ****\$/per pair.

C. ASSESSMENT OF ALL PRODUCERS/EXPORTERS TAIWAN

Normal Value

The Authority notes that none of the exporters/producers of subject goods from Taiwan have responded to the Initiation Notification. The Authority has therefore referenced the constructed cost of production as indicated in the foregoing para above for these exporters/producers from Taiwan also.

The normal value is therefore referenced as ****\$/ pair.

Export Price

The Authority notes that in view of no response by the exporters/producers from Taiwan and also no response from the importer, the best available information in terms of Rule 6(8) of Antidumping Rules has been considered. The CIF export price on the basis of the Directorate General of Commercial Intelligence and Statistics (DGCI&S) has been referenced for the purpose of evaluating the export price. The adjustments on inland freight, ocean freight, port expenses, commission and ocean insurance to an extent of ****, ****, ****, **** and ****\$/pair has been allowed on CIF to evaluate the ex-factory export price.

The ex-factory export price comes to ****\$/ pair.

5. DUMPING: Comparison of Normal Value & Export Price

The rules relating to comparison provides as follows:

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

The authority has carried out weighted average normal value comparison with the weighted average ex-factory export price in Period of Investigation, for evaluation of the dumping margin for all the exporter/producers of the subject country.

The dumping margin for exporter/producers comes as under:

SI. No	Exporter/Producer	Ex-factory Export Price (\$/pair)	Normal Value (\$/pair)	Dumping Margin as % of EP
1	PR China	****	**	26.49
	1. Y&S (Tianjin) Industries Ltd.	****	**	213.13
	2. Wenzhou East Optical glass Co.			
	Wenzhou Mingda Optical Glass	****	**	213.13
	Wenzhou Wenzhou Group Co.			
	3. Other producers/exporters			
2.	Taiwan	****		
	.All producers/exporters from Taiwan			233.75

6. INJURY

Under Rule 11 supra, Annexure-II, when a finding of injury is arrived at, such finding shall involve determination of the injury to the domestic industry, ".taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles...." 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 article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.

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

The Authority notes and observes the following economic parameters in the case of the domestic producers who have filed and supported the petition:-

	1999-2000	2000-2001	2001-2002 (POI)
Domestic Capacity(Pair) *	26,25,000	26,25,000	26,25,000
Production * (Pair)	943695	1513992	1781265
Capacity Utilisation (%)	36%	57%	67%
Domestic Sales (Pair)	432934	995479	1084573
Sales to production	46%	66%	61%
Imports from China (Pair)	475585	550319	872400
Imports from Taiwan(Pair)	414805	397593	623534
Total Imports (Pair)	2025705	1623482	2154880
Demand (Pair)	2458639	2618961	3239453
Market share of domestic industry as % of demand (%)	17%	38%	33%
Market share of China as % of demand (%)	19.34	21.01	26.93%
Market share of Taiwan as % of Demand	16.87	15.18	18.45%
Market share of China as % of total imports (%)	23.47	33.89	40.48%
Market share of Taiwan as % of total imports (%)	20.47	24.49	28.93%
Net Sales Realisation of Domestic Industry (Rs/Pair)	****	****	****

* Based on Domestic Sales entitlement of M/S Techtran Polylenses.

- i. The Authority notes that though the production, capacity utilisation and domestic sales of the Domestic Industry have increased from 1999-2000 to 2001-2002 in absolute terms it remains much below the installed capacity. One of the petitioners, i.e. M/S Techtran has been operating at about 85% capacity and maintaining its export obligation. But it has not been able to use its domestic sale entitlement (50% of exports) for all the years due to depressed prices in the domestic market caused by dumping from the subject countries. Actual domestic sales have been about 50% of its normal domestic sales entitlement for the period under consideration, leading to huge built up of

- inventory. The other petitioner M/S Indian Ophthalmics, is operating only half a shift in a day and produces only half its capacity, in order to avoid inventory built up as the domestic market is depressed due to both volume and price effect of dumped imports.
- ii. The capacity utilisation has remained below 70%. Though it has increased marginally between 00-01 and 01-02. But sales to production of the domestic industry have declined during this period.
 - iii. The imports of subject goods from the subject countries have increased from 1999-2000 to 2001-2002 in absolute terms and also as % of demand and total imports.
 - iv. The market share of Domestic Industry has decreased from 2000-2001 to 2001-2002 due to dumped imports.
 - v. The dumped imports have caused price under-cutting and the Net Sales Realization (NSR) of the Domestic Industry has been lower than the Non-Injurious Price (NIP) in the Period of Investigation thus leading to price underselling and thus financial loss to the Domestic Industry.
 - vi. The demand of subject goods has increased from 1999-2002 to 2001-2002 thus not being a constraining factor for injury to the Domestic Industry.
 - vii. One of the petitioners have been showing accumulated cash loss for the last three years including the POI or improving their financial position mostly through export earning, while inventory is building up as domestic sales have been affected by dumping from the subject countries.

7. CAUSAL LINK

The Authority has examined the impact of the dumped imports on the domestic industry as per principle (v), Annexure II of the Antidumping Rules. The relevant indices as set forth in para (iv) of the Annexure II of the rules have been examined by the Authority.

The Authority has considered the views expressed by the petitioners and other interested parties as regards the causal links, 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 as well as in relation to the demand of said goods in India.
- ii. The market share of the dumped imports from the subject countries has increased significantly during POI in comparison to the previous years. The significant volume of dumped imports from the subject countries has resulted in significant price under cutting, price suppression/depression for the subject products of the domestic industry. The net sales realization of the domestic

- industry has been significantly below the non-injurious price (NIP) of subject goods as a result of the dumped imports from subject countries.
- iii. 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.
 - iv. The above economic parameters cumulatively and collectively establish that domestic industry has suffered material injury on account of dumping.
 - v. The demand of the subject goods has not decreased but has instead increased and therefore, contraction of demand cannot be attributed as a cause of injury. The Authority also notes that the domestic industry is globally competitive and changes in technology or competition amongst the domestic producers are not the cause of injury. The Authority has also noted that there is some increase in the exports made by the domestic industry in comparison to the previous year. Therefore, decline in exports sales of the domestic industry cannot be attributed to the injury. No technological development in the industry or any other such factor, which could have resulted in injury to the domestic industry, has been noticed.

8. INDIAN INDUSTRY'S INTEREST & OTHER ISSUES

The Authority holds that the purpose of anti-dumping duties, in general, is to eliminate injury caused to the Domestic Industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country.

The Authority also recognizes that though the imposition of anti-dumping duties might affect the price levels of the products manufactured using the subject goods and consequently might have some influence on relative competitiveness of these products, however, fair competition in the Indian market will not be reduced by these anti-dumping measures. On the contrary, imposition of anti-dumping measures would remove the unfair advantages gained by the dumping practices and would prevent the decline of the domestic industry and help maintain availability of wider choice of the subject goods to the consumers. Imposition of anti-dumping measures would also not restrict imports from the subject country in any way, and, therefore, would not affect the availability of the products to the consumers.

9. LANDED VALUE

The landed value of imports for the purpose shall be the assessable value as determined by the Customs under Customs Tariff Act, 1962 and applicable level of

custom duties except duties levied under Section 3, 3A, 8B, 9, 9A of the Customs Tariff Act, 1975.

A. CONCLUSIONS:

After examining the issues raised and submissions made by the interested parties the authority provisionally concludes that:

- a. The subject goods in all forms originating in or exported from the subject countries have been exported to India below its normal value.
- b. The domestic industry has also suffered material injury by way of financial losses due to depressed Net Sales Realization (NSR) on account of price depression and suppression caused by low landed prices of the dumped subject goods.
- c. The injury has been caused to the domestic industry both by volume and price effect of dumping of the subject goods originating in or exported from the subject countries.
- d. The Authority recommends anti-dumping duty on imports of subject goods falling under chapter 90 and originating in or exported from the subject countries.
- e. The Authority recommends the amount of anti-dumping duty equal to the margin of dumping so as to remove the injury to the domestic industry accrued on account of dumping. Accordingly, it is recommended that provisional anti dumping duties equal to the difference between the amount indicated in the column 9 of the table annexed to this Notification and the landed value of subject goods, in US\$/thousand pair, be imposed, from the date of notification to be issued in this regard by the Central Government, on all imports of subject goods originating in or exported from subject countries under Chapter 90 Customs sub-heading 9001.50 the Customs Tariff, pending final determination

E. FURTHER PROCEDURE

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 the despatch of the letter.

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 conduct verifications to the extent deemed necessary;
- d. The Authority would provide opportunity to all interested parties for oral submissions, for which the date and time shall be communicated to all known interested parties separately;
- e. The Authority would disclose essential facts before announcing final findings.

(L V SAPTHARISHI)
Designated Authority

ANNEXURE – I

S.No	Sub Heading or Tariff Item	Description of Goods	Specification	Country of origin	Country of Export	Producer	Exporter	Amount	Unit of Measurement	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
1	9001.50	Plastic Ophthalmic Lenses made out of CR 39 or equivalent	Nil	People's Republic of China	Any country other than Taiwan	Y & S (Tianjim) Industries Wenzhou East, Wenzhou Group & Wenzhou Mingda	Any exporter Any Exporter	1230.46 1078.79	1000 Pair	US\$
2.	9001.50	Plastic Ophthalmic Lenses made out of CR 39 or equivalent	Nil	Any country	People's Republic of China	Y & S (Tianjim) Industries Wenzhou East, Wenzhou Group & Wenzhou Mingda	Any exporter Any exporter	1230.46 1078.79	1000 Pair	US\$
3	9001.50	Plastic Ophthalmic Lenses made out of CR 39 or equivalent	Nil	People's Republic of China	Any country other than Taiwan	Any Producer Other than the producers named above	Any exporter	1078.79	1000 Pair	US\$

4.	9001.50	Plastic Ophthalmic Lenses made out of CR 39 or equivalent	Nil	Any country	Taiwan	Any producer	Any exporter	1070.24	1000 Pair	US\$
5	9001.50	Plastic Ophthalmic Lenses made out of CR 39 or equivalent	Nil	Taiwan	Any country other than PR China	Any producer	Any exporter	1070.24	1000 Pair	US\$