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**F. No. 7/23/2021-DGTR
Government of India
Department of Commerce
Ministry of Commerce & Industry
(Directorate General of Trade Remedies)
4th Floor, Jeevan Tara Building, 5, Parliament Street, New Delhi -110001**

Dated: 6th May, 2022

FINAL FINDINGS
(Case No. AD (SSR) – 20/2021)

Subject: Sunset-review anti-dumping investigation concerning imports of “Opal Glassware” originating in or exported from China PR and UAE.

F. No. 7/23/2021- DGTR: Having regard to the Customs Tariff Act, 1975 as amended from time to time (hereinafter also referred to as “the Act”) and the Customs Tariff (Identification, Assessment and Collection of Antidumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended from time to time (hereinafter also referred to as “the Rules”) thereof.

A. BACKGROUND OF THE CASE

1. The Designated Authority (hereinafter also referred to as the “Authority”) received an application from Borosil Limited (hereinafter also referred to as the ‘applicant’ or the ‘petitioner’ or the “domestic industry”) requesting initiation of the sunset review investigation of anti-dumping duty imposed on the imports of ‘Opal Glassware’, (hereinafter also referred to as the ‘subject goods’ or the ‘product under consideration’ or the ‘PUC’) originating in or exported from China PR and UAE (hereinafter also referred to as the ‘subject countries’).
2. The original anti dumping investigation with respect to the import of Opal Glassware originating in or exported from China PR and UAE was initiated on 26th August, 2010. The Authority, vide its preliminary findings No. 14/24/2010- DGAD dated 27th June, 2011 had recommended the imposition of provisional duties against the dumped imports from the subject countries, which was imposed by the Central Government vide Customs Notification No. 72/2011-Customs dated 9th August, 2011. Thereafter, the Authority vide its final findings notification No. 14/24/2010- DGAD dated 25th August, 2011, recommended imposition of anti-dumping duties, which were given effect by the Central Government vide Customs Notification No. 103/2011-Customs dated 23rd November, 2011 for a period of five years.

3. A sunset review investigation was initiated on 8th July, 2016 with respect to the imports of Opal Glassware originating in or exported from China PR and UAE. The Authority, vide its final findings notification No. 15/4/2016- DGAD dated 3rd July, 2017, recommended extension of anti-dumping duties, which were given effect by the Central Government vide Customs Notification No. 37/2017-Customs (ADD) dated 9th August, 2017 for a period of five years. The existing duties will expire on 8th August, 2022.
4. In terms of Section 9A (5) of the Act, the anti-dumping duties imposed shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition and the Authority is required to review, whether the expiry of anti-dumping duties is likely to lead to continuation or recurrence of dumping and injury.
5. In accordance with the above, the Authority is required to review, on the basis of a duly substantiated request made by or on behalf of the domestic industry, as to whether the expiry of anti-dumping duties is likely to lead to continuation or recurrence of dumping of the subject goods and consequent injury to the domestic industry.
6. The applicant filed an application, requesting initiation of sunset review of anti-dumping duties imposed earlier and seeking continuation of anti-dumping duties against imports of Opal Glassware from China PR and UAE. The request was based on the grounds that the expiry of the measure was likely to result in continuation of dumping of the subject goods and consequent injury to the domestic industry.
7. In view of the duly substantiated application with prima facie evidence of likelihood of dumping and injury filed on behalf of the domestic industry and in accordance with Section 9A(5) of the Act, read with Rule 23 of the Rules, the Authority initiated the sunset review investigation vide notification No. 7/23/2021- DGTR dated 9th September, 2021 to review the need for continued imposition of anti-dumping duties in respect of the subject goods, originating in or exported from the subject countries and to examine whether the expiry of the said anti-dumping duties is likely to lead to continuation or recurrence of dumping and injury to the domestic industry.

B. PROCEDURE

8. The scope of the present review covers all aspects of the final findings notification No. 14/24/2010- DGAD, dated 25th August, 2011 and final findings notification No. 15/4/2016- DGAD dated 3rd July, 2017, by which imposition and continuation of anti-dumping duties on imports of the subject goods originating in or exported from the subject countries had been recommended.
9. The procedure described hereinbelow has been followed in this investigation:
 - i. The Authority vide notification No. 7/23/2021-DGTR dated 9th September, 2021, published a public notice in the Gazette of India, Extraordinary, initiating sunset review investigation concerning anti-dumping duty on the imports of the subject goods originating in or exported from the subject countries.

- ii. A copy of the public notice was forwarded by the Authority to the Embassies of the subject countries in India, known producers and exporters from the subject countries, known importers and other interested parties, to inform them of the initiation of the subject investigation in accordance with Rule 6(2) of the Rules.
- iii. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters, to the Governments of the subject countries through their Embassies.
- iv. The Authority forwarded a copy of the public notice initiating the sunset review investigation to the known producers / exporters in the subject countries, and other interested parties and provided them an opportunity to file response to the questionnaire in the form and manner prescribed within time limit as prescribed in the initiation notification, and make their views known in writing in accordance with the Rule 6(4) of the Rules. Due to inaccessibility of the public file in the wake of global pandemic of COVID-19, all the interested parties were asked to share the non-confidential version of all their submissions with all the other interested parties via emails.
- v. The Authority forwarded copies of the notification to the following three known producers/exporters on email ids made available by the domestic industry:
 - a. Arc International Middle East, LLC (UAE)
 - b. Anhui Sunhere (China PR)
 - c. Yiwn City Longfei Imports and Exports Co. Limited (China PR)
- vi. The Governments of the subject countries, through their Embassies in India were also requested to advise the exporters/producers from their country to respond to the questionnaire within the prescribed time limit. A copy of the letter and questionnaire sent to the known producers/exporters was also sent to the Embassies of the subject countries along with the names and addresses of the known producers/exporters from the respective subject countries.
- vii. None of the producers / exporters from the subject countries have responded by filing the questionnaire response.
- viii. The Authority forwarded a copy of the notification to the following known importers/users of the subject goods in India on email ids made available by the domestic industry, calling for necessary information, in accordance with Rule 6(4) of the Rules:
 - a. Aditya Promoters Limited.
 - b. Baron Agencies Private Limited
 - c. Chiraj Appliances Pvt Limited
 - d. Hamilton House Wares Pvt. Limited
 - e. Home Maker Enterprises Pvt Limited
 - f. Paras International
 - g. Talwar Agencies Pvt Limited
 - h. Taneja Crockery Pvt Limited
 - i. W.K.C Glassware Pvt. Limited
- ix. None of the importers/users have filed questionnaire response in the present investigation.

- x. The period of investigation (POI) for the purpose of the present investigation is 1st April, 2020 to 31st March, 2021 (12 months). The injury analysis period covers April 2017 - March 2018, April 2018 - March 2019, April 2019 - March 2020 and the period of investigation.
- xi. The transaction-wise imports data for the period of investigation and the preceding three years was procured from the Directorate General of Commercial Intelligence and Statistics (DGCI&S). The Authority has relied upon the data of DGCI&S for calculating the volume and value of imports of the subject goods in India.
- xii. Further information was sought from the applicant to the extent deemed necessary. The on-site verification of the data provided by the domestic industry was conducted to the extent considered necessary for the purpose of the present investigation.
- xiii. Due to curtailed physical movement owing to the global pandemic of COVID-19, The Authority did not maintain the public file and requested all the interested parties to share the non-confidential version of all their submissions with all the other interested parties via emails.
- xiv. The domestic industry has submitted financial data duly certified by their Chartered/Cost Accountant. The non-injurious price (NIP) has been determined based on the optimum cost of production and cost to make & sell the subject goods in India as per the information furnished by the domestic industry and in accordance with Generally Accepted Accounting Principles (GAAP) and Annexure III to the Rules. Such non-injurious price has been considered to ascertain whether anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.
- xv. In accordance with Rule 6(6) of the Rules, the Authority provided opportunity to all the interested parties to present their views orally in an oral hearing held on 31st January, 2022 through video conferencing. Since no one except the domestic industry has participated in the investigation, only the domestic industry attended the hearing and presented its views. The domestic industry followed it by filing the written submissions of the views expressed orally.
- xvi. A disclosure statement containing the essential facts in this investigation which would have been formed the basis of the final findings was issued on 28.04.2022 and the interested parties were allowed time to comment on the same. The comments on the disclosure statement received from the domestic industry have been considered, to the extent found relevant, in this final findings notification.
- xvii. The submissions made, arguments raised and information provided by the domestic industry during the course of the investigation, to the extent the same are supported with evidence and considered relevant to the present investigation, have been appropriately considered by the Authority in this final finding notification.
- xviii. The Authority, during the course of the investigation, satisfied itself as to the accuracy of the information supplied by the domestic industry, which forms the basis of this final findings to the extent possible and verified the data/documents

submitted by the domestic industry to the extent considered relevant, practicable and necessary.

- xix. The information provided by the domestic industry on confidential basis was examined with regard to sufficiency of the confidentiality claims. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted, and such information has been considered as confidential and not disclosed to anyone else.
- xx. *** in this final finding notification represents information furnished by the domestic industry on confidential basis, and so considered by the Authority under the Rules.
- xxi. The exchange rate adopted by the Authority for the subject investigation is US\$1=75.22 Rs.

C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

10. At the stage of initiation, the product under consideration was defined as under:

“The product under consideration in the present investigation is Opal Glassware of all types. Under the Customs Tariff Act, the product has been described as glassware (in general) of a kind used for table, kitchen, toilet, office, indoor decoration or similar purposes. The scope of the present investigation is however restricted to opal glassware of a kind used for table, kitchen and office.”

C.1. Submissions by the domestic industry

11. The following submission have been made by the domestic industry with regard to the scope of product under consideration and like article.
- a. Since the present investigation is a sunset review investigation for continued imposition of anti-dumping duty, the product under consideration is the same as in the original investigation.
 - b. The goods produced by the domestic industry and that imported into India from the subject countries are like articles. There is no known difference in the product under consideration produced by the applicant and those imported from the subject countries.

C.2. Examination by the Authority

12. The product under consideration in the present investigation is Opal Glassware of all types. The scope of the present investigation is, however, restricted to opal glassware of a kind used for table, kitchen and office.
13. The present investigation being a sunset review investigation, the scope of the product under consideration remains the same as that in the original investigation. In the original investigation, the product under consideration was defined as follows:

“a. The product under consideration in the present investigation is Opal Glassware of all types. Under the Customs Tariff Act, the product has been described as glassware (in general) of a kind used for table, kitchen, toilet, office, indoor decoration or similar purposes. The scope of the present investigation is however restricted to opal glassware of a kind used for table, kitchen and office.

b. Opal glasswares are produced through two technologies, i.e., spin (Centrifugal Process) and press technology (Dye Casting Process). The press technology is old and the spin technology is new. The products manufactured through the former process are lighter in weight and superior in quality and appearance compared to those manufactured from the latter process. The difference in the two technologies however does not render the two products dislike products. The goods produced through two technologies are opal glasswares and have the same usage.”

14. The product under consideration is classified under Chapter 70 under tariff item 7013 4900 of the Customs Tariff Act, 1975. The customs classification is indicative only and is not binding on the scope of the product under consideration.
15. On the basis of information on record with the Authority, the Authority holds that there is no known difference in the subject goods produced by the domestic industry and imported from the subject countries. The two are comparable in terms of physical characteristics, manufacturing process, functions and uses, product specifications, distribution and marketing, and tariff classification of the goods. The two are technically and commercially substitutable. The consumers have used and are using the two interchangeably. The Authority holds that the product manufactured by the applicant constitutes like article to the subject goods being imported into India from the subject countries in terms of Rule 2(d) of the Rules.

D. DOMESTIC INDUSTRY & STANDING

D.1. Submissions by the domestic industry

16. The following submissions have been made by the applicant with regard to the domestic industry and standing:
 - a. There are two other producers of Opal Glassware in India, namely, Cello Plast and La Opala RG Limited. The said producers have supported the present application and requested for continued imposition of the anti-dumping duty.
 - b. The applicant constitutes a major proportion in the total Indian production. The applicant along with the supporters constitutes 100% of the Indian production.
 - c. The applicant has not imported the subject goods from the subject countries and is not related to any producers / exporters in the subject countries and importers in India of the subject goods from the subject countries.

D.2. Examination by the Authority

17. Rule 2(b) of the Anti-Dumping Rules defines domestic industry as under:

“(b) “domestic industry” means the domestic producers as a whole engaged in the manufacture of the like article and any activity connected therewith or those whose collective output of the said article constitutes a major proportion of the total domestic production of that article except when such producers are related to the exporters or importers of the alleged dumped article or are themselves importers thereof in such case the term ‘domestic industry’ may be construed as referring to the rest of the producers”.

18. The present sunset review application has been filed by Borosil Limited. The applicant has submitted that it is not related to any producer / exporter of the subject goods in the subject countries or importers of the goods in India, and has not imported the subject goods from the subject countries. The applicant accounts for ***% of the total Indian production of the subject goods.
19. There are two other producers of Opal Glassware in India, namely, Cello Plast and La Opala RG Limited. Both the producers have supported the present application by filing support letters before the Authority.
20. The Authority notes that the applicant accounts for a major proportion of the total domestic production. It is also noted that the applicant is not related to any exporter or importer of the subject goods and have not imported the product under consideration. The Authority, therefore, determines that the applicant constitutes domestic industry under Rules 2(b) of the Rules.

E. CONFIDENTIALITY

E.1. Submissions by the domestic industry

21. The domestic industry has not made any submissions with regard to the confidentiality.

E.2. Examination by the Authority

22. No other party has participated in the investigation. The information provided by the domestic industry on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to anyone else.

F. NORMAL VALUE, EXPORT PRICE AND DETERMINATION OF DUMPING MARGIN

F.1. Submissions by the domestic industry

23. The following submissions have been made by the domestic industry with regard to the normal value, export price and dumping margin:
- a. None of the exporters from the subject countries have participated in the investigation. Therefore, the Authority should determine the normal value and the export price on the basis of the facts available.
 - b. The normal value for the producers / exporters in China PR should be determined based on the price of the imports from France to India as imports from France constitute the largest share of imports after the subject countries. Such imports are competing with the Chinese imports and such imports are also not dumped. Thus, France is an appropriate surrogate country.
 - c. Since the price of the exports made from a market economy third country to India is available, the normal value based on price paid or payable in India should not be adopted as recourse as observed by the Hon'ble Supreme Court in the case of Shenyang Mastushita S. Battery Co. Ltd. v. Exide Industries Ltd.
 - d. The normal value for producers / exporters in UAE should be determined based on the prices of the subject goods when sold in UAE.
 - e. The export price has been determined based on the CIF price which has been adjusted for ocean freight, marine insurance, commission, bank charges, port expenses and inland freight to arrive at the ex-factory level.
 - f. The dumping margin for the subject countries is positive and significant.

F.2. Examination by the Authority

24. As per section 9A(1)(c) of the Act, the normal value in relation to an article means:
- (i) *the comparable price, in the ordinary course of trade, for the like article when destined 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 to 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.

25. The Authority had sent questionnaire to the known exporters / producers from the subject countries, advising them to provide information in the form and manner prescribed. None of the producers / exporters from the subject countries have filed the exporter's questionnaire response. In an absence of any information filed by the producers / exporters from the subject countries, the Authority has determined the normal value for the producers / exporters in the subject countries based on the facts available.

F.2.1.Determination of Normal Value

Normal value for producers / exporters from China PR

26. Article 15 of China's Accession Protocol provides as follows:

"Article VI of the GATT 1994, the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 ("Anti-Dumping Agreement") and the SCM Agreement shall apply in proceedings involving imports of Chinese origin into a WTO Member consistent with the following:

(a) In determining price comparability under Article VI of the GATT 1994 and the Anti-Dumping Agreement, the importing WTO Member shall use either Chinese prices or costs for the industry under investigation or a methodology that is not based on a strict comparison with domestic prices or costs in China based on the following rules:

- (i) If the producers under investigation can clearly show that market economy conditions prevail in the industry producing the like product with regard to the manufacture, production and sale of that product, the importing WTO Member shall use Chinese prices or costs for the industry under investigation in determining price comparability;*
- (ii) The importing WTO Member may use a methodology that is not based on a strict comparison with domestic prices or costs in China if the producers under investigation cannot clearly show that market economy*

conditions prevail in the industry producing the like product with regard to manufacture, production and sale of that product.

(b) In proceedings under Parts II, III and V of the SCM Agreement, when addressing subsidies described in Articles 14(a), 14(b), 14(c) and 14(d), relevant provisions of the SCM Agreement shall apply; however, if there are special difficulties in that application, the importing WTO Member may then use methodologies for identifying and measuring the subsidy benefit which take into account the possibility that prevailing terms and conditions in China may not always be available as appropriate benchmarks. In applying such methodologies, where practicable, the importing WTO Member should adjust such prevailing terms and conditions before considering the use of terms and conditions prevailing outside China.

(c) The importing WTO Member shall notify methodologies used in accordance with subparagraph (a) to the Committee on Anti-Dumping Practices and shall notify methodologies used in accordance with subparagraph (b) to the Committee on Subsidies and Countervailing Measures.

(d) Once China has established, under the national law of the importing WTO Member, that it is a market economy, the provisions of subparagraph (a) shall be terminated provided that the importing Member's national law contains market economy criteria as of the date of accession. In any event, the provisions of subparagraph (a)(ii) shall expire 15 years after the date of accession. In addition, should China establish, pursuant to the national law of the importing WTO Member, that market economy conditions prevail in a particular industry or sector, the nonmarket economy provisions of subparagraph (a) shall no longer apply to that industry or sector."

27. It is noted that while the provision contained in Article 15 (a)(ii) have expired on 11th December, 2016, the provision under Article 2.2.1.1 of WTO, read with obligation under 15(a)(i) of the Accession Protocol require the criterion stipulated in para 8 of the Annexure I of the Rules to be satisfied through information/data to be provided in the supplementary questionnaire on claiming the market economy status. It is noted that no producer/exporter from China PR has claimed market economy status in the present sunset review investigation. Accordingly, the normal value computation is required to be determined as per provisions of para 7 of Annexure I of the Rules.
28. The Authority notes that none of the producers / exporters from China PR have filed the questionnaire response. Under these circumstances, the Authority has to proceed in accordance with para 7 of Annexure – I of the Rules, which reads as under-

In case of imports from non-market economy countries, normal value shall be determined on the basis of the price or constructed value in the market economy

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

29. At the application stage, the applicant had claimed France as the surrogate market economy country for China PR. The applicant claimed that imports from France comprise of the third largest share of imports into India after China PR and UAE and further that such imports are not being dumped into the country.
30. It is noted that as per the hierarchy given in the law, the normal value should first be determined on the basis of the price or constructed value in a market economy third country, and in the absence of price or constructed value in a market economy third country, the normal value shall be based on the price of exports from such country to other countries, including India. In this regard, the Authority notes the findings of the Hon'ble CESTAT in the case of Kuitun Jinjiang Chemical Industry Co. Ltd. vs. Union of India, wherein it was held that when normal value is determined based on exports from a market economy third country to India, the relevant criteria for determining appropriate market economy third country is volume of exports from such country and that the country should not be dumping during the period of investigation. The Authority notes that the volume of imports from France is significant, that is, in excess of de minimis and the imports from France are also not dumped. Accordingly, the Authority finds it appropriate to determine the normal value based on the export price of the subject goods from France to India.
31. For this purpose, the Authority has considered the DGCI&S data for the exports from France to India. Since these prices are at CIF level, the price has been adjusted for ocean freight, marine insurance, commission, bank charges, port expenses and inland freight on the basis of facts available to arrive at the ex-factory price. The normal value so determined is mentioned in the dumping margin table below.

Normal value for producers / exporters from UAE

32. None of the producers / exporters from UAE have participated in the present investigation. Accordingly, the normal value has been determined on the basis of the

facts available in terms of Rule 6(8) of the Rules. In this regard, the applicant has provided information with regard to the domestic selling price of the producers in UAE. However, the Authority noted that the UAE data provided by the domestic industry was not fully verifiable. Thus, the Authority in the absence of sufficient verifiable information on record determined the normal value by considering the method of “any other reasonable basis”. The Authority has, therefore, constructed the normal value for China PR on the basis of cost of production in India, duly adjusted, including selling, general and administrative expenses and addition of reasonable profits. The constructed normal value so determined is mentioned in the dumping margin table below.

F.2.2.Determination of Export Price

Export price for producers / exporters from China PR

33. None of the producers / exporters from China PR have participated in the investigation. Accordingly, the export price has been determined on the basis of facts available. For this purpose, CIF price as per transaction-wise DGCI&S import data has been considered, which has been adjusted for ocean freight, marine insurance, commission, bank charges, port expenses and inland freight on the basis of facts available.

Export price for producers / exporters from UAE

34. None of the producers/ exporters from UAE have participated in the investigation. Accordingly, the export price has been determined on the basis of facts available. For this purpose, CIF price as per transaction-wise DGCI&S import data has been considered, which has been adjusted for ocean freight, marine insurance, commission, bank charges, port expenses and inland freight on the basis of facts available.

F.2.3.Determination of dumping margin

35. Based on the normal value and the export price determined as above, the dumping margin for producers / exporters from China PR and UAE has been determined by the Authority and the same is provided in the dumping margin table below:

Dumping Margin Table

SN	Name of Producer	Normal Value	Export Price	Dumping Margin	Dumping Margin	Dumping Margin
		(USD/MT)	(USD/MT)	(USD/MT)	(%)	(Range)
1	China PR	***	***	***	***	55-65
2	UAE	***	***	***	***	40-50

G. ASSESSMENT OF INJURY AND CAUSAL LINK

G.1. Submissions by the domestic industry

36. The following submissions have been made by the domestic industry with regard to the injury and the causal link:
- a. The domestic industry has not suffered injury only due to the anti-dumping duty in force which has ensured fair competition in the market.
 - b. None of the producers and exporters from the subject countries have responded, which has deprived the Authority of the information relating to the likelihood from Part II of the questionnaire. If a party does not cooperate with the Authority, the Authority is entitled to draw an adverse inference as held in *Designated Authority v. Haldor Topsoe 2000 (120) E.L.T. 11 (S.C.)*. In view of non-cooperation by the producers / exporters, the Authority should apply adverse inference and conclude that there is likelihood of continuation of dumping and subsequent injury in the absence of duties.
 - c. The European Commission and the Australian Authority also consider non-participation of producers as a factor showing likelihood of dumping and injury.
 - d. The producers in the subject countries have continued to dump the subject goods despite the anti-dumping duties in force.
 - e. The exporters in the subject countries have a tendency to engage in dumping as they have a history of dumping into India, visible from the significant dumping margin in the original investigation as well as the present investigation.
 - f. The reduction in the dumping margin from 55%-130% in 2012-13 to 30%-40% in 2017-18 for China PR and from 40%-45% in 2012-13 to 0-10% for UAE in 2017-18 resulted in a significant increase in the volume of dumped imports, with a corresponding decline in the market share of the domestic industry.
 - g. The producers in the subject countries are holding huge surplus production capacities far in excess of demand, due to which the exporters in the subject countries are resorting to dumping of the subject goods in the country.
 - h. The producers in China PR are highly export oriented and are exporting more than 80% of their production. Such exportable volumes amount to 326% of the total Indian demand.
 - i. The subject imports are undercutting the prices of the domestic industry and in the event of cessation of duties, the volume of imports at low prices is likely to increase.
 - j. India is a price sensitive market, and availability of low-priced dumped imports from the subject countries is likely to cause consumers to shift to the imported product.
 - k. The domestic industry is presently in a stable position and has been able to earn profits only due to the current anti-dumping duties in force.
 - l. The major costs borne by domestic industry have either remained largely constant or have declined over the injury period. As a result, the domestic industry has

- been able to reduce its costs and has become cost-efficient over the years by virtue of the present anti-dumping duties.
- m. The subject imports are entering the market at prices below the cost of sales of the domestic industry.
 - n. The subject imports are likely to enter India way below the non-injurious price of the domestic industry in the event of expiration of duties.
 - o. India is an important market for the producers of China PR and UAE.
 - p. The present investigation being a sunset review, there is no requirement to establish a causal link between the likely dumping and likely injury as observed by the Appellate Body in United States – Anti dumping measures on OCTG from Mexico.

G.2. Examination by the Authority

37. The Authority has taken note of the arguments of the domestic industry with regard to injury to the domestic industry. The injury analysis undertaken by the Authority is as under.

G.2.1. Cumulative assessment

38. Article 3.3 of the WTO Agreement and Para (iii) of Annexure II of the Rules provides that in case where imports of a product from more than one country are being simultaneously subjected to anti-dumping investigations, the Authority will cumulatively assess the effect of such imports, in case it determines that:
- a. The margin of dumping established in relation to the imports from each country is more than two percent expressed as percentage of export price and the volume of the imports from each country is three percent (or more) of the import of like article or where the export of individual countries is less than three percent, the imports collectively account for more than seven percent of the import 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 articles.
39. The Authority notes that:
- a. The subject goods are being dumped into India from the subject countries. The margins of dumping from each of the subject countries is more than the *de minimis* limits prescribed under the Rules.
 - b. The volume of imports from each of the subject countries is individually more than 3% of the total volume of imports.
 - c. Cumulative assessment of the effect of imports is appropriate as the exports from the subject countries not only directly compete inter-se but also with the like articles offered by the domestic industry in the Indian market.

40. In view of the above, the Authority considers that it is appropriate to assess the effect of dumped imports of the subject goods from China PR and UAE cumulatively.
41. Rule 11 of the Rules read with its Annexure-II thereto provides that an injury determination shall involve examination of factors that may indicate 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."
42. Rule 23 of the Rules provides that the provisions of Rules 6, 7, 8, 9, 10, 11, 16, 17, 18, 19 and 20 shall apply mutatis mutandis in case of a review. In case the performance of the domestic industry shows that it has not suffered injury during the current injury period, the Authority shall determine whether cessation of the present duty is likely to lead to recurrence of injury to the domestic industry.
43. The Authority has examined current injury, if any, to the domestic industry before proceeding to examine the likelihood aspects of dumping and injury on account of imports from the subject country. It has been examined as to whether there is an increase in imports, in absolute terms or in relation to production or consumption. In considering the effect of the dumped imports on the 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, indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, stock, profitability, net sales realization, the magnitude and margin of dumping, etc. have been considered in accordance with Annexure-II of the Rules. The Authority has taken note of submissions of the domestic industry and has analyzed the same considering the facts available on record and applicable laws.

I. Assessment of demand / apparent consumption

44. The Authority has defined, for the purpose of the present investigation, demand or apparent consumption of the product under consideration in India as the sum of domestic sales of the domestic industry and other Indian producers and imports from all sources. The demand so assessed is given in the table below.

Particulars	Unit	2017-18	2018-19	2019-20	POI
Domestic industry sales	MT	***	***	***	***
Trend	Indexed	100	156	181	147
Other Indian producers sales	MT	***	***	***	***
Trend	Indexed	100	133	138	110

Subject imports	MT	2,466	3,041	6,659	3,410
China PR	MT	2,158	2,343	4,386	2,993
UAE	MT	308	697	2,272	417
Other imports	MT	1,598	1,619	1,240	517
Demand	MT	***	***	***	***
Trend	Indexed	100	135	156	115

45. It is seen that the demand for the subject goods had been increasing throughout the injury period and has declined during the period of investigation. The applicant has submitted that such decline is due to the impact of Covid-19 pandemic and is temporary.

II. Volume effect of the dumped imports

46. With regard to the volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in the dumped imports, either in absolute terms or relative to production or consumption in India. For the purpose of injury analysis, the Authority has relied upon the transaction wise import data procured from DGCI&S. The import volumes of the subject goods from the subject countries and share of the dumped imports during the injury investigation period are as follows:

Particulars	Unit	2017-18	2018-19	2019-20	POI
Subject imports	MT	2,466	3,041	6,659	3,410
China PR	MT	2,158	2,343	4,386	2,993
UAE	MT	308	697	2,272	417
Other imports	MT	1,598	1,619	1,240	517
Total	MT	4,065	4,660	7,899	3,927
Imports in relation to					
Domestic production	%	***	***	***	***
Consumption	%	***	***	***	***
Total Imports	%	61	65	84	87

47. It is seen that:
- The volume of subject imports increased significantly till 2019-20 but declined in the period of investigation. The applicant has submitted that such decline is only due to Covid-19. However, despite decline in the volume of the subject imports during the period of investigation, the volume is still higher than what it was at the beginning of the injury period, despite anti-dumping duty in force.
 - Further, both imports from China PR and UAE have increased till 2019-20, before declining during the period of investigation.

- c. The subject imports in relation to domestic production and consumption slightly declined in 2018-19, increased in 2019-20 and then declined in the period of investigation.
- d. The share of subject imports in total imports increased throughout the injury period and such imports account for more than 87% of the total imports into the country

III. Price effect of the dumped imports

48. In terms of Annexure II (ii) of the Rules, with regard to the effect of the dumped imports on prices, the Authority is required to consider whether there has been a significant price undercutting by the dumped imports as compared with the price of the like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. In this regard, a comparison has been made between the landed price of imports from the subject country with the net sales realization of the domestic industry for the subject goods.

a. Price undercutting

49. To determine the price undercutting, a comparison has been made between the landed value of the product and the average selling price of the domestic industry, net of all rebates and taxes, at the same level of trade. The prices of the domestic industry were determined at the ex-factory level.

Particulars	Unit	China PR	UAE
Landed price of imports	Rs/MT	96,824	1,04,693
Net sales realization	Rs/MT	***	***
Price undercutting	Rs/MT	***	***
Price undercutting	%	***%	***%
Price undercutting	Range	50-60	35-45

50. It is noted that the subject imports were significantly undercutting the prices of the domestic industry as the landed price of the subject goods was much below the net sales realization of the domestic industry. In the event of expiry of duty, the imports are likely to create a strain on the prices of the domestic industry.

b. Price suppression/depression

51. In order to determine whether the effect of imports depress prices to a significant degree or prevent the price increase which otherwise would have occurred in the normal course, the information given by the domestic industry for the changes in the

costs and prices over the injury period has been compared with the landed value to see the desired effect.

Particulars	Unit	2017-18	2018-19	2019-20	POI
Cost of sales	Rs/MT	***	***	***	***
Trend	Indexed	100	94	95	97
Selling price	Rs/MT	***	***	***	***
Trend	Indexed	100	98	93	94
Landed price	Rs/MT	98,040	99,315	86,734	97,787
Trend	Indexed	100	101	88	100

52. It is noted that the cost of sales and the selling prices of the domestic industry have both declined in the POI in comparison to the base year. However, the decline in the selling price is at a higher rate than the decline in the cost of sales. Further, the landed price of the subject imports has remained significantly below the cost of sales and selling price of the domestic industry.

IV. Economic parameters of the domestic industry

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

a. Production, capacity, capacity utilization and sales volumes

54. The performance of the domestic industry with regard to the capacity, production, sales and capacity utilization over the injury period was as below:

Particulars	Unit	2017-18	2018-19	2019-20	POI
Capacity	MT	***	***	***	***
Trend	Indexed	100	104	104	104
Production	MT	***	***	***	***
Trend	Indexed	100	185	197	136

Capacity utilization	%	***	***	***	***
Trend	Indexed	100	221	201	134
Domestic sales	MT	***	***	***	***
Trend	Indexed	100	156	181	147

55. The Authority notes that:

- i. The capacity of the domestic industry increased in 2018-19 and has remained constant thereafter.
- ii. The production and sales of the domestic industry were increasing consistently till 2019-20 but declined during the period of investigation.
- iii. The capacity utilization of the domestic industry increased in 2018-19 but declined thereafter.

b. Market share

56. The market share of the dumped imports and the domestic industry have been examined as below:

Particulars	Unit	2017-18	2018-19	2019-20	POI
Domestic industry	%	***%	***%	***%	***%
Trend	Indexed	100	116	116	128
Other producers	%	***%	***%	***%	***%
Trend	Indexed	100	99	89	95
Subject imports	%	10%	9%	17%	12%
Other imports	%	6%	5%	3%	2%

57. It is noted that the market share of the domestic industry has increased consistently over the injury period. The market share of the other producers increased in 2018-19, declined in 2019-20 but has increased again in the period of investigation. By contrast, the market share of the subject imports increased significantly in 2019-20 but declined in the period of investigation in line with decline in import volume.

c. Inventories

58. The inventory position of the domestic industry over the injury period is given in the table below:

Particulars	Unit	2017-18	2018-19	2019-20	POI
Opening stock	MT	***	***	***	***
Closing stock	MT	***	***	***	***
Average stock	MT	***	***	***	***
Trend	Indexed	100	158	209	154

59. It is noted that the domestic industry accumulated significant inventories till 2019-20 but the inventories declined in the period of investigation. Nevertheless, the inventories are higher than what they were at the beginning of the injury period by 54%.

d. Profitability, cash profits and return on capital employed

60. The profits, the return on capital employed and the cash profits position of the domestic industry over the injury period is given in the table below:

Particulars	Unit	2017-18	2018-19	2019-20	POI
Cost of sales	Rs/MT	***	***	***	***
Trend	Indexed	100	94	95	97
Selling price	Rs/MT	***	***	***	***
Trend	Indexed	100	98	93	94
Profit before tax	Rs/MT	***	***	***	***
Trend	Indexed	100	163	58	52
Total profit before tax	Rs. Lacs	***	***	***	***
Trend	Indexed	100	255	106	77
Total profit before interest	Rs. Lacs	***	***	***	***
Trend	Indexed	100	232	59	37
Cash profits	Rs. Lacs	***	***	***	***
Trend	Indexed	100	230	185	152
Return on capital employed	%	***%	***%	***%	***%
Trend	Indexed	100	124	29	20

61. The Authority notes that the profitability of the domestic industry increased initially in 2018-19 but declined thereafter and in the period of investigation. The domestic industry is earning significantly lower profits during the period of investigation than that during the base year. The cash profits and the return on capital employed also followed a similar trend and suffered decline in the period of investigation. The domestic industry has witnessed significant decline in its return on capital employed over the injury period.

e. Employment, wages and productivity

62. The Authority has examined the information relating to employment, wages and productivity as under:

Particulars	Unit	2017-18	2018-19	2019-20	POI
No. of employees	Nos.	***	***	***	***
Trend	Indexed	100	141	123	92
Productivity per day	MT/Day	***	***	***	***
Trend	Indexed	100	233	213	140
Productivity per employee	MT/Nos.	***	***	***	***
Trend	Indexed	100	160	180	160
Wages	Rs. Lacs	***	***	***	***
Trend	Indexed	100	170	173	126

63. It is seen that the number of employees of the domestic industry increased till 2018-19 and thereafter declined in the period of investigation whereas total wages have increased till 2019-20 and declined only in the period of investigation. The productivity of the domestic industry has declined in the period of investigation, with decline in production.

f. Growth

Particular	Unit	2017-18	2018-19	2019-20	POI
Production	%	-	130.25	(9.16)	(33.52)
Domestic Sales Volume	%	-	56.02	16.10	(18.61)
Cost of sales domestic	%	-	(6.47)	2.07	1.51
Selling price domestic	%	-	(2.46)	(4.32)	1.08
Profit/Loss domestic	%	-	63.14	(64.23)	(10.57)
Average stock	%	-	58.39	32.07	(26.56)

64. It is noted that the volume parameters of the domestic industry continued to grow over the injury period but declined during the period of investigation. Such decline may be attributable to the decline in demand due to the Covid-19 pandemic. However, the profitability parameters of the domestic industry witnessed a decline during the injury period.

g. Factors affecting prices

65. The cost of sales and the selling prices of the domestic industry have both declined over the injury period, but the decline in selling price is at a higher rate than the decline in the cost of sales. Further, the landed price of the subject imports has remained significantly below the cost of sales and selling price of the domestic industry. As a result, the domestic industry has been forced to reduce its prices. Thus, the imports are one of the factors affecting the prices of the domestic industry.

h. Ability to raise capital investment

66. It is noted that although the production and domestic sales of the domestic industry increased, it has suffered significant decline in the profits and recorded a decline in cash profits and return on capital employed.

i. Magnitude of dumping

67. It is seen that there is continued dumping of the subject goods in India, despite the anti-dumping duties in force.

V. Overall assessment of injury

68. From the above, it is evident that despite the anti-dumping duties in force, the imports continued to increase significantly till 2019-20, in absolute terms as well as in relation to domestic production and consumption. Consequently, the market share of the subject imports also increased significantly. However, the volume of imports declined in the period of investigation due to the Covid-19 pandemic. While the market share of the domestic industry has increased in the period of investigation, the market share of the subject imports has declined as result of decline in imports. It is also noted that the imports are significantly undercutting the prices of the domestic industry and the domestic industry has been forced to reduce its prices. The volume parameters of the domestic industry have improved over the period, barring during the period of investigation where the demand for the subject goods declined. However, the profitability of the domestic industry has declined significantly. The domestic industry suffered a significant decline in its profits, cash profits and return on capital employed. In view of the foregoing, the Authority concludes that the performance of the domestic industry has been impacted by the subject imports, and the domestic industry continues to remain fragile.

H. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING AND INJURY

69. The Authority observes that since this is a sunset review investigation, the focus of this investigation is also to examine the likely scenario of continued dumping and consequent injury if anti-dumping duties is to be allowed to expire even if there is no current injury. This also requires a consideration of whether the duty imposed is serving the intended purpose of eliminating the injurious dumping. In this regard, the WTO Panel in EC – Footwear observed that –

“In original anti-dumping investigations, investigating authorities must determine whether the domestic industry of a Member is materially injured by dumped imports. At this stage, the focus is on the existence of "material injury" at

the time of the determination. That determination is made under Article 3, based on information concerning the necessary and relevant factors for some previous period. In contrast, in an expiry review, an anti-dumping measure has been in place for some time, and investigating authorities must, based on a fresh analysis, determine whether the expiry of that measure would be likely to lead to continuation or recurrence of injury”.

70. Thus, in a sunset review investigation, the Authority is required to analyze whether revocation of a measure is likely to result in continuation or recurrence of injury to the domestic industry, contrary to the determination of injury in an original investigation. A similar view was taken by the Hon’ble CESTAT in the decision of P.T. Asahimas Chemicals vs. Designated Authority, Ministry of Finance [2015 (328) E.L.T. 417 (Tri. - Del.)], wherein it was held –

“10. With respect to the injury determination, if the anti-dumping duty had the desired effect, the condition of the domestic industry would be expected to have improved during the period the anti-dumping duty was in effect. Therefore, the assessment whether injury will continue, or recur, would entail a counter-factual analysis of future events, based on projected levels of dumped imports, prices, and impact on domestic producers. Thus the D.A. has to address the question as to whether the domestic industry is likely to be materially injured again, if duties are lifted.

11. In the light the aforesaid legal position, we are of the view that the question to be addressed is not whether there is current dumping, but whether revocation of duty would result in recurrence of dumping and injury.”

71. Therefore, in case of a sunset review investigation, existence of current injury to the domestic industry is not relevant to examine whether duties are required be continued or not. The Authority in a review investigation is required to analyze whether there exist likelihood of continuation or recurrence of dumping or injury in the event of cessation of existing measures.
72. All factors brought to the notice of the Authority have been examined to determine as to whether there is a likelihood of continuation or recurrence of dumping and consequent injury or dumping and injury in the event of cessation of the duty. The Authority has considered various information, as made available by the domestic industry, in order to evaluate the likelihood of continuation or recurrence of dumping and injury.
73. The Authority notes that there are no specific methodologies available to conduct such a likelihood analysis. However, Clause (vii) of Annexure II of the Rules provides, inter-alia, for factors which are required to be taken into consideration, viz.:

- i. A significant rate of increase of dumped imports into India indicating the likelihood of substantially increased importation;
- ii. Sufficient freely disposable, or an imminent, substantial increase in, capacity of the exporter indicating the likelihood of substantially increased dumped exports to Indian markets, taking into account the availability of other export markets to absorb any additional exports;
- iii. Whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices, and would likely increase demand for further imports; and
- iv. Inventories of the article being investigated.

74. The domestic industry has claimed that due to lack of participation by any producers / exporters from the subject countries and in the absence of information for the country as a whole required to be provided by the responding producer, the Authority must draw adverse inference in line with the decision of the Hon'ble Supreme Court in the case of Designated Authority vs. Haldor Topsoe. It is noted that Rule 6(8) of the Anti-dumping Rules provides as follows, with regard to absence of concrete information –

“6(8) In a case where an interested party refuses access to, or otherwise does not provide necessary information within a reasonable period, or significantly impedes the investigation, the designated authority may record its findings on the basis of the facts available to it and make such recommendations to the Central Government as it deems fit under such circumstances.”

75. Such view was also taken by the Hon'ble Supreme Court of India in its decision in the case of Designated Authority vs. Haldor Topsoe wherein it was held that it is the duty of the Authority to appreciate the evidence placed before it and to draw adverse inference in absence of such evidence placed before it. It is noted that none of the producers / exporters from the subject countries have participated in the present investigation by filing response to the questionnaire issued by the Authority or by providing information in any other way. On the other hand, the domestic industry has provided best available information supporting their claim. In view of the above, the Authority will examine the likelihood of dumping and injury based on the facts available before it as supplied by the domestic industry.

76. Further, the Authority has also examined other relevant factors having a bearing on the likelihood of continuation or recurrence of dumping and consequent injury to the domestic industry. The examination of the parameters of likelihood is as follows.

a. Continued dumping despite existence of anti-dumping duty

77. The Authority notes that there is continued and significant dumping of the subject goods from the subject countries, in spite of the duties in force. Continued dumping

during the existence of duties indicates likelihood of continuation of dumping in the event of cessation of anti-dumping duty.

b. Increase in the volume of imports despite duties

78. The Authority notes that the volume of imports increased in absolute and relative terms over the injury period, till 2019-20. Thereafter, the imports declined in the period of investigation, when there was a decline in the demand for the subject goods. However, pursuant to the sunset review investigation, the Authority modified the duties based on the facts prevalent at the time. This resulted in significant increase in the volume of imports over the period, only to decline in the period of investigation due to the Covid-19 pandemic. This also caused the domestic industry to lose its market share to the subject imports despite duties in force.

	Volume			Share		Duty
Particulars	Imports	Industry	Demand	Imports	Industry	
Unit	MT	MT	MT	%	%	
2012-13	697	***	***	9%	91%	55%-130% for China PR and 40%-45% for UAE
2013-14	473	***	***	5%	95%	
2014-15	309	***	***	2%	98%	
2015-16	403	***	***	3%	97%	
2017-18	2,466	***	***	10%	84%	30%-40% for China PR and 0-10% for UAE
2018-19	3,041	***	***	9%	86%	
2019-20	6,659	***	***	17%	80%	
2020-21	3,410	***	***	12%	86%	

(Source: Previous findings)

c. Significant capacities with producers in China PR

79. The domestic industry has submitted the information available in the public domain as well as the information published on the websites of the exporters to demonstrate that the producers in China PR have significant capacities available at their disposable. Such capacities are even higher than the demand in India for the product under consideration. If the producers in China PR utilise such capacities to exports to India, it is likely to lead to a significant increase in imports, taking away the market share of the domestic industry.

Units in MT

SN	Name of Company	UOM	Capacities
1.	Guangdong Jiancheng High Tech Glass Products	MT	18,000
2.	Xianning Huimeid Industry and Co. Limited	MT	40,000
3.	Zhejiang Chengtai Industry Co. Limited	MT	54,000
4.	Jiangsu Yuefeng Technology Co. Limited	MT	20,000

5.	Wenzhou Huishunda Industrial Trade Co. Limited	MT	15,000
6.	Guangzhou Garbo International Trading Co. Limited	MT	28,000
7.	Zibo Modern International Co. Limited	MT	27,374
8.	Total Chinese production capacity	MT	2,02,374
9.	Total demand in India	MT	***

Source: Publicly available information, including websites of producers

d. High degree of export orientation of exporters in China PR

80. The domestic industry has also submitted information demonstrating that the exporters in China PR are highly export oriented and export significant share of their total production volume. According to the domestic industry, on an average, the Chinese exporters export 80% of their total production. Further, the total exportable volume of the Chinese producers amounts to ***% of the total Indian demand, as can be seen from the table below. In the event of expiry of duties, producers in China PR are likely to export the subject goods at a much higher rate.

Name of Company	Capacity (MT)	Export Orientation (%)	Exportable volume (MT)
Guangdong Jiancheng High Tech Glass Products	18,000	81-90	14,580
Xianning Huimeid Industry and Co. Limited	40,000	31-40	12,400
Jiangsu Yuefeng Technology Co. Limited	20,000	81-90	16,200
Guangzhou Garbo International Trading Co. Limited	28,000	More than 90	25,200
Zibo Modern International Co. Limited	27,374	91-100	24,910
Gross known exportable volume			93,290
Indian demand			***
Exportable volume as % of Indian demand			***%

Source: Publicly available information

e. Prominence of India as a market

81. It is noted that India is an important market for the producers of China PR and UAE. In 2020, India was in the top 10 export markets for producers in China PR and in the top 15 export markets for the producers in UAE.

	Exports from China PR		Exports from UAE	
Year	Export Quantity	India's rank	Export Quantity	India's rank

	(MT)		(MT)	
2017	17,746	3 rd	880	9 th
2018	19,150	5 th	1191	9 th
2019	17,930	5 th	2576	5 th
2020	14,087	8 th	711	12 th

Source: Trade Map

f. Fragile situation of the domestic industry

82. The Authority also considers that even during the present injury period, the performance of the domestic industry was adversely impacted by the increase in imports, and the price depression. The profitability of the domestic industry has declined over the period and its return on capital employed is extremely low. The profitability of the domestic industry has been further impacted by Covid-19 during the period of investigation. Therefore, the domestic industry is already in a fragile situation. In the event of expiry of duty, the continued dumping is likely to intensify the injury to the domestic industry.

g. Likely price suppression or depression

83. The Authority notes that the landed price of the subject imports is undercutting the domestic selling price. Further, the landed price of the subject imports has remained significantly below the cost of sales and selling price of the domestic industry, forcing the domestic industry to reduce its prices. Accordingly, the subject imports have had a depressing effect on the domestic selling price. Therefore, in the event of cessation of duties, the subject imports are likely to continue to have a depressing effect on the prices of the domestic industry.

h. Imports entering India below the cost of sales

84. It is noted that the subject imports have entered the Indian market at injurious prices and below the cost of sales and selling price of the domestic industry despite duties in force. This indicates that the imports are likely to adversely impact the prices of the domestic industry in the event of expiry of the duty. Cessation of present duties would result in such imports entering the country at even lower prices, forcing the domestic industry to lower its prices in order to compete, resulting in decline in profitability.

Particulars	Unit	Actual	Likely	Change
Cost of sales	Rs/MT	***	***	-
Selling price	Rs/MT	***	***	-34%
Profit / loss	Rs/MT	***	(***)	-1071%
Profit / loss	Rs Lakhs	***	(***)	-1071%
Profit margin (on cost)	%	***%	(***)%	-1071%
Cash profits	Rs Lakhs	***	(***)	-202%

Return on investment	%	***%	(***)%	-995%
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i. Import volume at dumped and injurious prices

85. It is noted that the producers / exporters in China PR are dumping the subject goods in other countries as well, in addition to India. The table below shows that the exports to other countries from China PR are at dumped prices. The data for China PR is summarized below. The similar data for UAE is not readily available but the fact remains that the current dumping and injury margins in respect of exports of the subject goods from UAE to India are at significant levels and also the likely price from the subject countries as a whole is also below the cost of sales of the domestic industry.

Particulars	Total Volume export to world for POI period	Dumped Volume	Dumped Volume %	Injurious Volume	Injurious Volume %	Demand in India for POI period	Volume of Exports at dumped prices as % of Indian demand	Volume of Exports at injurious prices as % of Indian demand
China PR	5,39,503	***	13%	***	3.76%	***	251.36%	70.91%

I. CAUSAL LINK AND NON-ATTRIBUTION ANALYSIS

86. As per the Rules, the Authority, inter-alia, is required to examine any known factors other than the dumped imports which at the same time are injuring the domestic industry, so that the injury caused by these other factors may not be attributed to the dumped imports. The factors which may be relevant in this respect include, inter-alia, the volume and prices of imports not sold at dumped prices, contraction in demand or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and the productivity of the domestic industry. It has been examined below whether factors other than dumped imports could have contributed to the injury to the domestic industry:

a. Volume and prices of imports from third countries

87. It is seen that other than the subject countries, there are significant imports from France. However, the import price from France is significantly higher than the price of imports from the subject countries, and thus, no injury is likely on account of such imports.

b. Contraction in demand

88. The Authority notes that the demand for the subject goods increased consistently through the injury period but has declined in the period of investigation due to the impact of Covid-19 pandemic, which is temporary.

c. Pattern of consumption

89. It is noted that there is no change in the pattern of consumption of the subject.

d. Conditions of competition and trade restrictive practices

90. The Authority notes that the investigation has not shown that conditions of competition or trade restrictive practices were likely to cause injury to the domestic industry.

e. Developments in technology

91. It is noted that the technology for producing the subject goods has not undergone any change.

f. Productivity

92. The Authority notes that the productivity of the domestic industry has increased over the injury period but has declined during the period of investigation due to decline in the production on account of temporary decline in demand.

g. Export performance of the domestic industry

93. The Authority notes that the injury information examined hereinabove relates only to the performance of the domestic industry in terms of its domestic market.

h. Performance of other products

94. The Authority has only considered data relating to the performance of the subject goods.

i. Covid-19 pandemic

95. The Authority notes that the performance of the domestic industry is likely to have been impacted due to the effects of the Covid-19 pandemic during the period of investigation. However, it is noted that the performance of the domestic industry had deteriorated even before the period of investigation.

J. MAGNITUDE OF INJURY MARGIN

96. The Authority has determined the non-injurious price for the domestic industry on the basis of principles laid down in the Rules read with Annexure III, as amended. The non-injurious price of the product under consideration has been determined by adopting the verified information/data relating to the cost of production for the period of investigation. The non-injurious price has been considered for comparing the landed price from the subject country for calculating injury margin. For determining the non-injurious price, the best utilization of the raw materials by the domestic industry over the injury period has been considered. The same treatment has been carried out with the utilities. The best utilization of production capacity over the injury period has been considered. It is ensured that no extraordinary or non-recurring expenses were charged to the cost of production. A reasonable return (pre-tax @ 22%) on average capital employed (i.e., average net fixed assets plus average working capital) for the product under consideration was allowed as pre-tax profit to arrive at the non-injurious price as prescribed in Annexure III of the Rules and being followed.
97. Based on the landed price and the non-injurious price determined as above, the injury margin for the producers/exporters has been determined by the Authority and the same is provided in the injury margin table below.

Injury Margin Table

SN	Name of Producer	Non-injurious Price	Landed price	Injury Margin	Injury Margin	Injury Margin
		(USD/MT)	(USD/MT)	(USD/MT)	(%)	(Range)
1	China PR	***	1,287	***	***	35-45
2	UAE	***	1,392	***	***	25-35

K. INDIAN INDUSTRY'S INTEREST

K.1. Submissions by the domestic industry

98. The following submissions have been made by the domestic industry with regard to the Indian industry's interest:
- a. The effect of anti-dumping measures on public interest must be studied from the perspective of interests of different set of parties – (a) the domestic producer of the product under consideration, (b) the domestic consumers of the product under consideration, (c) the upstream and downstream industries in both the producing and consuming industry, (d) the general public and (e) purpose/ objective of imposition of anti-dumping duties.

- b. The demand for the subject goods has increased continuously during the life of the duties and the decline during the period of investigation is due to Covid-19 pandemic which is temporary.
- c. The price of the product under consideration has decreased during the existence of duties and thus, continuation of duties is not likely to result in any price increase which might adversely impact the consumers.
- d. Since the original investigation, the Indian industry has grown and includes three producers with a total installed capacity of 54,500 MT.
- e. While the initial investment by the industry was only Rs. *** Crores, it has increased to Rs. *** crores at present.
- f. The domestic industry and supporters of the application have undertaken significant investments to cater to the Indian demand and have planned to undertake investment of upto Rs. 305 crores to expand capacities upto ***MT.
- g. Anti-dumping duties do not restrict imports from the subject countries but only ensure that imports shall enter the market at fair prices.
- h. The Indian industry has sufficient capacity to meet the entire demand in India. Further, imports can also be made from France to fulfil the demand in the country.
- i. Despite having sufficient capacities to cater to the entire Indian demand, the capacity utilization of the domestic industry has declined from ****% in 2018-19 to ****% in the period of investigation due to dumped imports.
- j. Due to number of producers in India, there is inter-se stiff competition between the domestic producers. Therefore, the consumers are ensured availability of product at competitive prices.
- k. The domestic industry offers employment to around *** personnel directly or indirectly. In the absence of duties, low-priced imports in large volume will cut into the share of the domestic industry, causing injury and subsequent loss of employment.
- l. There are no significant differences between the product under consideration and the domestic like product. Thus, there is no need for such a high dependence on the imports.
- m. Procuring from the domestic industry will result in stability of fair price in the market, uninterrupted supply, growth of the downstream industry and a reliable business partner for the users, while allowing them to hold lower inventories.
- n. India's import reliance on Opal glass has shrunk from 44% to 14% in the last decade and cessation of duties would lead to increase in India's import reliance due to the availability of cheap dumped imports.
- o. The subject imports being completely unnecessary owing to the sufficient domestic capacities, continuation of duties would help in turning the trade balance in favour of India.

K.2. Examination by the Authority

99. The Authority notes that the purpose of anti-dumping duty, in general, is to eliminate injury caused to the domestic industry by the unfair trade practices of dumping so as to establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Imposition of anti-dumping measures does not aim to restrict imports from the subject countries in any way. The Authority recognizes that the imposition of anti-dumping duties might affect the price levels of the product in India. However, fair competition in the Indian market will not be reduced by the imposition of anti-dumping measures. On the contrary, imposition of anti-dumping measures would ensure that no unfair advantages are gained by dumping practice, prevent decline of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods.
100. The Authority considered whether imposition of anti-dumping shall have any adverse impact on the interest of the public. In order to determine such impact, the Authority weighed the impact of the imposition of duties on the availability of the goods in the Indian market, the impact on the users of the product as well as the domestic industry and the impact on the general public at large. This determination is based on the submissions and evidence submitted over the course of the present investigation.
101. The Authority issued initiation notification inviting views from all interested parties, including importers, consumers and others. The Authority also prescribed a questionnaire for the users/consumers to provide relevant information with regard to present investigation, including any possible effects of anti-dumping duty on their operations. However, it is noted that no user has participated in the present investigation and no information has been submitted in this regard.
102. While none of the users have provided any information establishing any adverse impact of duties, the domestic industry has made detailed submissions quantifying the possible impact of the duties on the downstream users. It is noted that despite imposition of duties, the price of the product under consideration has continuously declined. Over the duration of duties, the prices have declined by 12% and thus, even if the duties are continued, price of the product under consideration is not likely to increase to the detriment of the consumers.

Year	Price (INR/MT)
2012-13	***
2013-14	***
2014-15	***
2015-16	***
2017-18	***
2018-19	***

2019-20	***
2020-21	***
Decline over base year	(-)12%

103. With regards the availability of the product under consideration, it is noted that anti-dumping duty does not restrict imports but ensures that imports are available at fair prices. The imposition of duty would not affect the availability of the product. Even otherwise, the Indian industry at present comprises the three producers, which have sufficient capacities to cater to the entire demand in the country. Further, the goods can also be imported from other countries such as France, Thailand, Belgium and Spain. Therefore, the imposition of duties would not have any impact on the consumers of the product under consideration in the market.
104. The domestic industry has submitted that it has been able to grow and has moved towards higher cost effectiveness due to current anti-dumping duties in force. During the verification of the information undertaken by the Authority, the domestic industry presented the various measures undertaken to become more competitive. Such measures include adoption of new cost-effective technologies, domestic procurement of raw materials and inputs, adoption of environmentally friendly production process, investment in skill development, investment in research and development of new product types, etc. Based on the evidence placed on record, it is noted that the major costs borne by the applicant have either remained largely constant or have even declined over the injury period. As a result, the applicant has been able to reduce its costs and become cost-efficient over the years as can be seen from the table below. Also, as a result, the domestic industry has been able to pass on the reduced costs to its consumers, with decline in price over the injury period. However, the domestic industry has been forced to reduce its prices at a higher rate than the reduction in cost, leading to price depression and decline in its profitability.

Particulars	Unit	2017-18	2018-19	2019-20	POI
Raw Material	Rs/MT	***	***	***	***
Trend	Indexed	100	124	110	103
Packing Material Consumed	Rs/MT	***	***	***	***
Trend	Indexed	100	114	98	103
Utilities (Power/Fuel)	Rs/MT	***	***	***	***
Trend	Indexed	100	94	81	66
Power	Rs/MT	***	***	***	***
Fuel	Rs/MT	***	***	***	***
Other Utilities	Rs/MT	***	***	***	***
Manpower Cost	Rs/MT	***	***	***	***
Trend	Indexed	100	92	88	93
Total Major Cost in total Cost of Sales	Rs/MT	***	***	***	***

Trend	Indexed	100	103	92	89
Saving per Unit (as compared to base year)	Rs/MT				(***)

105. The Authority further notes that there exists sufficient healthy inter-se competition between the domestic producers. The domestic industry has stated that the capacity in the country exceeds the demand in the country indicating stiff price competition. The domestic industry has already made significant investments in 2017-18. Further, the Indian industry is also planning further investments to the tune of Rs. 305 crores in future to expand their production capacities upto ***MT. The Authority notes that the significant capacity in the country would ensure that the product under consideration is available to the consumers at competitive prices.

L. POST DISCLOSURE COMMENTS

106. The Authority noted that the domestic industry has, in response to the disclosure statement, reiterated its earlier submissions, which have already been examined and addressed by the Authority. Following are the additional submissions made by the domestic industry on the disclosure statement.

L.1. Submissions by the domestic industry

107. The domestic industry has made the following submissions post disclosure:
- Demand for Opal glassware products has increased over the last few years considering they are food safe, aesthetic, heat resistant, shock proof and affordable when compared to stainless steel, ceramic, melamine and bone-china products.
 - Opal glassware products are more affordable in comparison to melamine or bone-china products.
 - The Indian industry has made significant investments to enhance their capacities and have increased their capacities from *** MT in 2006-07 to *** MT at present. Further, the industry has planned investments of around Rs. 305 crores to expand capacities by additional *** MT.
 - The domestic industry has made efforts to become more cost efficient and have adopted more cost-effective technologies and production methods.
 - Adoption of new technologies has allowed the domestic industry to reduce the prices of their products.
 - The domestic industry has also requested to include some post-manufacturing expenses, since the product under consideration is a consumer product which is specifically targeted to the general public. Thus, such cost should be included in the determination of the non-injurious price.

L.2. Examination by the Authority

108. With regard to the claims of the domestic industry concerning the significant investments undertaken by the industry and the cost efficiency achieved post-imposition of duties, advantages of the product under consideration based on the physical and monetary benefits, the Authority has already addressed such claims in the relevant portion of the present findings.
109. The non-injurious price for the domestic industry has been determined on the basis of principles laid down in the Rules read with Annexure III, as amended. The non-injurious price of the product under consideration has been determined by adopting the verified information/data relating to the cost of production for the period of investigation. For determining the non-injurious price, the best utilization of the raw materials by the domestic industry over the injury period has been considered. The same treatment has been carried out with the utilities. The best utilization of production capacity over the injury period has been considered. It is ensured that no extraordinary or non-recurring expenses were charged to the cost of production. A reasonable return (pre-tax @ 22%) on average capital employed (i.e., average net fixed assets plus average working capital) for the product under consideration was allowed as pre-tax profit to arrive at the non-injurious price as prescribed in Annexure III of the Rules.

M. CONCLUSION

110. Having regard to the contentions raised, information received, submissions made and facts available before the Authority as recorded in these findings and on the basis of the examination of likelihood of continuation or recurrence of dumping and consequent injury hereinabove, the Authority concludes that:
- a. There is continued and significant dumping of subject goods from the subject countries despite duties.
 - b. The volume of dumped imports has increased significantly following the first sunset review investigation wherein the present duties were modified.
 - c. The producers in China PR have significant excess capacities, much higher than the Indian demand, which can be diverted to exports to India.
 - d. The producers in China PR are highly export oriented and are likely to divert the excess capacities for exports to India in case of cessation of duties.
 - e. India is an important export market for producers in subject countries and they are exporting to India at significantly low prices, much lower than the cost of sales and selling price of the domestic industry.
 - f. The domestic industry is vulnerable to injury from dumped imports in case of cessation of duties.
 - g. The subject imports are undercutting the prices of the domestic industry and have forced the domestic industry to reduce its prices, despite duties.
 - h. The producers in the subject countries are dumping the subject goods in third countries and are selling the goods in third countries at injurious price.

- i. The information on record shows likelihood of continuation of dumping and consequent injury to the domestic industry, in case anti-dumping duty is allowed to cease.
 - j. There is no demand-supply gap in the country as the Indian producers have sufficient capacity to meet the entire demand country. Further, the subject goods can also be imported from undumped sources.
 - k. There are 3 producers of the subject goods in the country who are competing in a healthy market situation, which would ensure availability of goods at competitive prices.
 - l. The Indian industry has made significant investments to enhance their capacities and has already announced further investments for the product under consideration.
 - m. The domestic industry has invested in cost-efficient technologies in order to reduce its costs, which has also been passed on to the consumer in the form of reduction of prices.
 - n. The domestic industry has offered direct and indirect employment to large number of people and is likely to generate more employment following capacity expansions.
 - o. None of the users / consumers have participated in the investigation. Regardless, procuring from the domestic industry will result in stability of fair price in the market, uninterrupted supply and a reliable business partner for the users.
111. The Authority further concludes that opal glassware of a kind used for table, kitchen and office is a novel product available in wide range of sizes, styles and combinations. On one hand, the product is substituting ceramicware of Bone China and Stainless-Steel dinner sets as a cheaper substitute, and on the other hand has provided an alternate though slightly expensive substitute to melamine ware (use of which could expose the human being to Urea and associated hazard involved therein). In view of the novelty involved with the product, the imposition of the anti-dumping duties on the product in 2011 led to significant positive impact on the industry, and the public at large. The imposition of measures resulted in increase in number of domestic producers from one (2011) to three at present and increase in the capacity from 3,500 MT (2011) to 55,000 MT at present. The industry is now further expanding capacities by *** MT which shall increase the gross Indian capacity to the tune of lakhs of dinner set per annum. The process involved in producing the product is such that the furnace involved in producing the product, once started, is run non-stop throughout its life of over five-seven years. The furnace must be rebuilt thereafter. Thus, once fired, the furnace must run non-stop over its entire life, thus leading to a situation where output becomes a compulsion with any producer of the product. This industry is also a major employment generating industry, including significant employment for women. The Authority notes that the share of subject imports in Indian demand was as high as 42% over the injury period of the original investigation, and the same declined to 4% over the injury period of the first sunset review. It was 12% at the time of the present review. Thus, while the measure has provided level playing field to the Indian industry and has allowed it to

increase its presence in the market, the share of the imports has once again increased in the present period.

112. The Authority notes that the increase in demand for the product over the injury period is clearly indicative of the favourable impact of the anti-dumping duty on the domestic producers and the public at large. The impressive growth in demand also shows no adverse effect of the measure on the eventual end consumer. The information on record shows that the price of the product in fact declined by 12% between 2012-13 (Rs. *** pmt) and POI (Rs. *** pmt). The decline in price is despite the normal inflation and input price increase during this period. It is noted that raw materials involved in the production of Opal glassware are largely domestically procured. The production process involves high value addition on the selling price of the product in the market.
113. The economic performance of the domestic industry shows that the industry has been able to grow steadily over the period, both on volume and profit accounts. At the same time, the financial performance of the domestic industry is fragile. It is evident that cessation of anti-dumping duty is likely to lead to significant erosion in profitability of the domestic industry and shall lead to a situation where the domestic industry shall be once again suffering significant financial losses, cash losses and negative return on investments. It is seen that the landed price of import is ***% below the cost of sales, ***% below the selling price, and ***% below the non-injurious price of the domestic industry. The significant price difference between the domestic and imported product and the fact that the landed price of import is materially below cost of sales and non-injurious price of the domestic industry clearly shows that there shall be significant increase in imports in the event of cessation of anti-dumping duty at this stage. The domestic industry provided information showing that it has taken a number of measures during the period of duty, which included adopting new cost-effective technologies, domestic procurement of raw materials and inputs, adoption of environmentally friendly production process, reduction in weight without compromising on quality, investment in skill development, investment in research and development of new product types, etc. The cumulative effect of various efforts made by the domestic industry led to considerable reduction in the costs. In a cost-based protection system, the domestic industry has submitted that benefit of these measures has gone to the public at large. The investigation has, however, shown that the Chinese producers have exported the product to India at prices significantly below the normal value resulting in dumping to the tune of 55-65%, undercutting to the tune of 50-60% and injury to the tune of 35-45%. The producers in subject countries are holding significant surplus unutilized capacities, more than 707% of Indian demand. The subject producers are export oriented to the extent of 80-90%, which is ***% of the present Indian consumption. The high degree of export orientation of subject foreign producers, significant unutilized capacities even despite current exports, significant price difference between the domestic product and imported product, collectively and

cumulatively establish that the foreign producers can increase their volumes in a reasonably foreseeable future. It is seen that these foreign producers can take away complete Indian demand in reasonably foreseeable future. Given the nature of production process, cessation of anti-dumping duty is likely to force the domestic producers to sell the product in the market at prices materially below cost of production. Alternatively, it is likely to lead to significant piling of inventories and significant collateral damages to the domestic producers in maintaining production and plant utilisation. It is also seen that it is not feasible for the domestic producers to reduce prices to the extent of price difference between the domestic and the imported product, given the huge difference in the prices, and its killing effect on the viability of the industry.

114. The Authority also notes that none of the producers of the product under consideration in subject countries, none of the consumers or importers in India or any other parties have participated in the present investigation. Further, the domestic industry has provided elaborate information substantiating a favourable impact of the measure over last one decade on the public at large and domestic producers. The Authority notes that there is no evidence of possible adverse effect of the measures even though anti-dumping duty has been in place on the product over past a decade. Further, instead of price increase post imposition of duties, in fact, price of the product has declined by over 12% thus clearly showing that the domestic producers have not taken any undue price advantage of the measure earlier imposed and thereafter extended. Such being the case, there is no reason to believe that the domestic producers shall take undue advantage of extension of the present measures. The Authority also notes that the pattern of import volumes since the initial investigation clearly shows a significant decline in import volumes after the original investigation (both from China and UAE). Further, at the time of sunset review, while duty was slightly reduced in case of China, the duty was significantly reduced in case of UAE. Consequently, it is seen that there was a significant increase in imports from UAE. Further, even imports from China have shown increase. Thus, the pattern of import from China and UAE first after imposition and thereafter extension of anti-dumping duty clearly establishes a strong likelihood of significant increase in imports in the event the present anti-dumping duty is not extended.
115. The investigation has shown that the volume of export from China and UAE to rest of the world at prices below normal value and NIP is significantly high as compared to the established Indian demand, thus clearly showing the possibility of subject foreign producers taking away complete Indian demand in the event of cessation of anti-dumping duties.

N. RECOMMENDATIONS

116. The Authority notes that the investigation was initiated and notified to all the interested parties and adequate opportunity was given to the domestic industry, exporters, importers and other interested parties to provide information on the aspects of dumping, injury, causal link and likelihood of continuation or recurrence of dumping and injury. Having concluded that there is likelihood of continued dumping and subsequent injury to the domestic industry if the anti-dumping duty is allowed to cease, the Authority is of the view that continuation of the anti-dumping duty is required on the imports of the product under consideration from China PR and UAE. The Authority recommends imposition of the duty from the date of notification to be issued in this regard by the Central Government.
117. Under these circumstances, the Authority considers it appropriate to recommend continuation of existing quantum of the anti-dumping duty on the imports of the subject goods from the subject countries. The Authority, thus, considers it necessary to recommend continuation of the anti-dumping measure as an ad valorem duty, worked out as a percentage of the CIF value of imports of the subject goods from the subject countries. Accordingly, the definitive anti-dumping duty equal to the amount arrived at by applying the percentage indicated in Col 7 of the duty table given below is recommended to be imposed from the date of notification to be issued in this regard by the Central Government on all the subject imports as detailed in Column 3 of the duty table, originating in or exported from the subject countries for a further period of five (5) years from the date of notification to be issued in this regard by the Central Government.

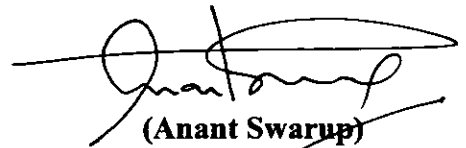
DUTY TABLE

SN	Tariff Heading	Description of goods	Country of origin	Country of export	Producer	% of CIF value
1	2	3	4	5	6	7
1	7013	Opal glassware	China PR	Any country including China PR	Any	30.64
2	-do-	-do-	Any country other than China PR and UAE	China PR	Any	30.64
3	-do-	-do-	UAE	Any country including UAE	Any	4.38
4	-do-	-do-	Any country other than China PR and UAE	UAE	Any	4.38

118. The landed value of imports for this purpose shall be assessable value as determined by the Customs under Customs Act, 1962 and applicable level of custom duties except duties levied under Section 3, 3A, 8B, 9, 9A of the Customs Tariff Act, 1975 as amended from time to time.

O. FURTHER PROCEDURE

119. An appeal against these findings after its acceptance by the Central Government shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act, 1975 as amended and Customs Tariff Rules, 1995.


(Anant Swarup)
Designated Authority