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**No. 6/6/2021-DGTR  
Government of India  
Ministry of Commerce & Industry  
Department of Commerce  
(Directorate General of Trade Remedies)  
Jeevan Tara Building, 5, Parliament Street, New Delhi 110001**

Dated 29.09.2022

**NOTIFICATION**

**FINAL FINDINGS**

**Case No. (AD-OI-06/2021)**

**Subject: Anti-dumping investigation concerning imports of semi-finished Ophthalmic Lenses originating in or exported from China PR**

**File No - 6/6/2021-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 Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules 1995 thereof, as amended from time to time (hereinafter also referred to as 'the Rules' or 'AD Rules' or 'ADD Rules').

**A. BACKGROUND OF THE CASE**

1. GKB Ophthalmics Limited (hereinafter also referred to as “domestic industry” or “applicant” or “petitioner” or “GKB Ophthalmics”) has filed an application before the Designated Authority (hereinafter referred to as the “Authority”), seeking initiation of anti-dumping investigation on imports of semi-finished Ophthalmic Lenses (hereinafter referred as the “subject goods” or “product under consideration” or “PUC”), originating in or exported from China PR (hereinafter referred to as the “subject country”), citing that dumped imports of subject goods from subject country are causing material injury to the domestic industry.
2. The Authority, on the basis of prima facie evidence submitted by the applicant, issued a public notice vide Notification No. 6/6/2021 -DGTR dated 30<sup>th</sup> September 2021, published in the Gazette of India, Extraordinary, initiating the subject investigation in accordance with Section 9A of the Act read with Rule 5 of the Rules to determine the existence, degree and effect of the alleged dumping of the subject goods originating in or exported from the subject country and to recommend the amount of anti-dumping duty, which if levied, would be adequate to remove the alleged injury to the domestic injury.

**B. PROCEDURE**

3. The procedure described below has been followed with regard to the investigation:
- i. The Authority issued a Notification dated 30.09.2021, published in the Gazette of India Extraordinary, initiating investigation concerning imports of the subject goods from China PR.
  - ii. The Authority sent a copy of the initiation notification to the Embassy of the subject country in India, known producers/exporters from China PR, known importers/users in India and the domestic industry as per the addresses made available by the applicant and requested them to make their views known in writing within 30 days of the initiation notification in accordance with Rule 6(2) of the AD Rules. The time limit to file information was extended first up to 11.01.2022 and then up to 18.01.2022.
  - iii. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters and to the Government of the subject country, through its Embassy in India in accordance with Rule 6(3) of the Rules supra. A copy of the non-confidential version of the application was also made available to the other interested parties, wherever requested, through e-mails.
  - iv. The Authority sent exporter's questionnaire to the following known producers/exporters in China PR, whose details were made available by the applicant, to elicit relevant information in accordance with Rule 6(4) of the Rules:
    - a) Danyang Legend Optical Company Limited
    - b) Danyang Hongsun Optical Glasse
    - c) Danyang Changxing Optical Glasses Factory
    - d) Danyang H&C Optical Glasses Company Limited
    - e) Jiangsu Junshi Optics Company Limited
    - f) Danyang Henry Optical Company Limited
    - g) Shanghai Conant Optics Company Limited
    - h) Jiangsu Kmd-optical Company Limited
    - i) Danyang Lens Optics Technology
  - v. The following producers/exporters from China PR have filed exporter's questionnaire response:
    - a) Daejeon Daemyung Optical (Hangzhou) Co. Ltd.
    - b) Conant Optics (Jiangsu) Co., Ltd.
    - c) Shanghai Conant Optics Co., Ltd.
    - d) Zhejiang Weixing Optical Co., Ltd.

- e) Shanghai Weixing Optical Technology Co., Ltd.
- f) Carl Zeiss Vision (China) Ltd.
- g) Jiangsu Youli Optics Spectacles Ltd.
- h) Chemiles Corporation
- i) Jiangsu Future Vision Co., Ltd
- j) Delta Lens Private Limited
- k) Essilor Amara Pte. Ltd
- l) Shanghai Essilor Optical Co., Ltd.

vi. The Authority forwarded a copy of the Initiation Notification to the following known importers/users/user associations in India whose names and addresses were made available to the Authority and advised them to make their views known in writing within the time limit prescribed by the Authority in accordance with the Rule 6(4):

- a) Essilor Manufacturing India Private Limited
- b) Essilor India Private Limited
- c) GKB Rx Lens Private Limited
- d) Ray Ban Sun Optics India Private Limited
- e) Carl Zeiss India (Bangalore) Private Limited
- f) GKB Hi-Tech Lenses Private Limited
- g) Lenstech Optical Private Limited
- h) Transworld Commercial Enterprises
- i) GKB Vision Pvt. Ltd.
- j) Lenskart Solutions Private Limited
- k) Titan Company Limited
- l) Vision Rx Private Limited
- m) Hoya India Private Limited
- n) Indian Optics Private Limited
- o) Trishul Optics
- p) Sun Optical Eye Case Hospital
- q) Nayansukh Opticians
- r) Vinod Ophthalmics Works
- s) Yash Lenses

vii. The following importers/users/consumers have filed importer's questionnaire response:

- a) Lenskart Solutions Private Limited
- b) Carl Zeiss India (Bangalore) Pvt. Ltd.
- c) R. K. Optical Services
- d) India Optics Pvt. Ltd.
- e) Yash Optics & Lens Pvt. Ltd.
- f) Essilor India Private Limited
- g) Essilor Manufacturing India Private Limited

- h) GKB Vision Pvt. Ltd
  - i) See World Optical Co., Ltd
  - j) Vision Rx Labs Private Limited
  - k) RayBan Sun Optical India Pvt. Ltd.
- viii. Foreign producers/exporters and other interested parties who have not responded to the Authority, or not supplied the information relevant to this investigation, are proposed to be treated as non-cooperating interested parties.
- ix. Information provided by the interested parties on confidential basis was examined with regard to the sufficiency of the confidentiality claim. On being satisfied, the Authority holds to accept the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to the other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.
- x. The Authority made available the non-confidential version of the submissions made by the various interested parties. A list of all the interested parties was uploaded on the DGTR website along with the request to all of them to email the non-confidential version of their submissions to all the other interested parties since the public file was not accessible physically due to the ongoing COVID-19 global pandemic.
- xi. The period of investigation for the purpose of the present investigation has been considered from 1<sup>st</sup> April 2020 – 31<sup>st</sup> March 2021 (12 months) (“POI”). The injury investigation period is the period of 1<sup>st</sup> April 2017 – 31<sup>st</sup> March 2018, 1<sup>st</sup> April 2018 – 31<sup>st</sup> March 2019, 1<sup>st</sup> April 2019 – 31<sup>st</sup> March 2020 and the POI.
- xii. Additional/supplementary information was sought from the applicant and the other interested parties to the extent deemed necessary. Verification of the data provided by the domestic industry and the other interested parties was conducted to the extent considered necessary for the purpose of the investigation.
- xiii. The Non-injurious Price (NIP) is based on the cost of production and cost to make and sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) and Annexure III to the AD Rules. NIP has been worked out so as to ascertain whether duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.
- xiv. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) and DG-Systems to provide the transaction-wise details of imports of the subject goods for the injury period. The same has been relied upon for the computation of the volume and value of imports.

- xv. In accordance with Rule 6(6) of the Rules, the Authority provided opportunity to all interested parties to present their views orally in the oral hearing held on 21.04.2022 which was attended by the interested parties. The oral hearing was held through video conferencing in view of the special circumstances arising out of the COVID-19 pandemic. The Authority directed the domestic industry to file revised petition in the requisite format latest by 30.04.2022. All the parties present in the oral hearing were asked to file their written submissions after receipt of NCV version of the revised petition filed by the domestic industry and thereafter make their rejoinder submissions.
- xvi. The submissions made by the interested parties during the course of this investigation, wherever found relevant, have been addressed by the Authority, in these final findings.
- xvii. Wherever an interested party has refused access to or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has considered such parties as non-cooperative and recorded these final findings on the basis of the facts available.
- xviii. In accordance with Rule 16 of the Rules, the essential facts of the investigation were disclosed to the known interested parties vide Disclosure Statement dated 9<sup>th</sup> September, 2022 and comments received thereon, considered relevant by the Authority, have been addressed in these final findings. The Authority notes that most of the post disclosure submissions made by the interested parties are mere reiteration of their earlier submissions. However, the post disclosure submissions to the extent considered relevant are being examined in these final findings.
- xix. \*\*\* in these final findings. represents information furnished by an interested party on confidential basis, and so considered by the Authority under the Rules.
- xx. The exchange rate adopted by the Authority during the POI for the subject investigations is 1 US\$= Rs. 75.22.

**C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE**

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

*“The product under consideration includes “semi-finished ophthalmic lenses made up of plastic and are identified as per the refractive indexes such as 1.498, 1.56, 1.60, 1.67 & 1.74 etc. These PUCs are also manufactured in different sizes having diameter 65, 70 and 75mm etc. However, different sizes would not impact the pricing of the PUC. The following types of products are however excluded from the scope of the product under consideration:*

- (i) Polarized lenses
- (ii) Polycarbonate lenses
- (iii) Transition lenses
- (iv) High and special purpose lenses

*Semi-finished Ophthalmic Lenses are classified under Chapter 90 of the Customs Tariff Act, 1975 under the ITC HS Code 9001.5000. The Customs classification is only indicative and is not binding on the scope of the product under consideration."*

5. During the course of the investigation, Product Control Number (PCN) methodology was proposed by few interested parties for appropriate comparison. The Authority conducted a consultation with all the interested parties through video conferencing on 02.12.2021 with regard to PCN methodology and also sought their comments on the PCN methodology.
6. The Authority issued final PCN methodology on 10.12.2021. The following PCN methodology has been finalized after due consultation with all the interested parties through video conferencing and taking into account their written submissions:

| S.No | PCN Parameter         | PCN Description  | PCN Code                      | No. of Digits/Character |
|------|-----------------------|--|-------------------------------|-------------------------|
| 1.   | Refractive Index (RI) | 1.49<br>1.50<br>1.55<br>1.56<br>1.57<br>1.59<br>1.60<br>1.67<br>1.74   | 149/150/155<br>etc.           | 3                       |
| 2.   | Diameter              | Less than or equal to 60mm<br>More than 60mm but less than or equal to 70mm<br>More than 70mm but less than or equal to 80mm<br>More than 80mm | A<br>B<br>C<br>D              | 1                       |
| 3.   | Aspheric/Spherical    | Aspheric<br>Spherical  | A – Aspheric<br>S – Spherical | 1                       |
| 4.   | Type of Vision        | Single<br>Bifocal  | 1 = Single<br>2 = Bifocal     | 1                       |

|  |  |             |                 |  |
|--|--|-------------|-----------------|--|
|  |  | Progressive | 3 = Progressive |  |
|--|--|-------------|-----------------|--|

#### **D.1. Submissions made by the other interested parties**

7. The following submissions have been made by the other interested parties during the course of the investigation:

- (i) There is no explanation or description of technical characteristics regarding each excluded category of product type in the initiation notification or in the petition filed by the domestic industry.
- (ii) The Authority should include description of technical characteristics against each category of excluded product so that there is no ambiguity regarding the scope of product types excluded from the scope of the PUC.
- (iii) The PUC has been defined by the Authority without identifying and laying down any technical features or characteristics. It does not explain what is “semi-finished” and to what level of manufacturing ophthalmic lenses can be considered as “Semi-Finished ophthalmic lenses”. The PCN notified by the Authority does not cover this aspect.
- (iv) Both semi-finished ophthalmic lenses and finished ophthalmic lenses are classified under HS Code 9001 5000. In the absence of accurate and precise description/explanation of semi-finished ophthalmic lenses, there can be ambiguity about the product on which the anti-dumping duty would be levied.
- (v) Letter filed by another domestic producer Techtran Polylenses Limited (“TPL”) provides technical description of the PUC as follows:  
  

*“Semi-finished blanks are ophthalmic lenses which have the front surface of the lens made to ophthalmic quality and the back surface unfinished. Semi-finished lenses come in many forms, single vision, bifocal, and multifocal (progressive) types with different segment styles and sizes. Semi-finished blanks are surfaced to the desired prescription powers to produce a finished lens.”*
- (vi) Semi-finished lens is the raw blank lens used to produce the individualized RX lens according to the patient's prescription. Thus, Authority should clearly define the meaning and scope of semi-finished ophthalmic lenses in the final findings so that there is no ambiguity at the time of importation.
- (vii) The domestic industry does not produce following types of semi-finished ophthalmic lenses as per the information supplied by the domestic industry on their website:
  - a. semi-finished ophthalmic lenses of refractive index 1.6 blue cut
  - b. semi-finished ophthalmic lenses of refractive index 1.6 clear
  - c. semi-finished ophthalmic lenses of refractive index 1.67 blue cut

- d. semi-finished ophthalmic lenses of refractive index 1.67 clear
- e. semi-finished ophthalmic lenses of refractive index 1.74 blue cut
- f. semi-finished ophthalmic lenses of refractive index 1.74 clear

- (viii) Thus, the above-mentioned product types not manufactured by the domestic industry should be excluded from the scope of the PUC.
- (ix) The petitioner has not provided segregated data to show that they produce subject goods of different PCN types.
- (x) The Authority should note that the PUC is produced and sold in various refractive indexes and diameters which affect the price of the product. If sizes vary, the requirement of inputs vary and also the cost and prices. The application is silent on this aspect.
- (xi) The petition does not indicate the methodology used for the segregation of the PUC and Non-PUC. Transaction wise data should be provided to the interested parties to verify the same.
- (xii) The PUC with refractive index 1.59 can only be manufactured with 'polycarbonate' material. Polycarbonate material is excluded from the scope of the PUC. Exclusion of polycarbonate lenses from the scope of the PUC means semi-finished lenses with refractive index of 1.59 are excluded from the scope of the PUC. Petitioner has also not provided any evidence to show that the PUC with refractive index of 1.59 can be manufactured using some other raw material.
- (xiii) The PCN Methodology devised by the Authority vide F. No. 6/6/2021-DGTR dated 10<sup>th</sup> December 2021 includes the subject goods with refractive index of 1.59 as one of the PCN description. If the subject goods with refractive index of 1.59 is excluded from the scope of the PUC, including the same in PCN description does not serve any purpose and is illegal. The PCN parameters devised cannot go beyond the scope of the PUC.

## **D.2. Submissions made by the domestic industry**

- 8. The following submissions have been made by the domestic industry during the course of investigation:
  - (i) The petitioner is a leading manufacturer of semi-finished ophthalmic lenses, which are used by the optical laboratories to produce finished lenses as per the requirements of end customers. Such lenses are made of plastic and identified as per refractive indexes such as 1.498, 1.50, 1.56, 1.60, 1.67 & 1.74 etc. and manufactured in different sizes having diameter 65, 70 and 75 mm etc.
  - (ii) The description of each of the products excluded from the PUC can be as follows:



- **Polarized lenses:** Polarized lenses have a special chemical molecule which are lined up specifically to block irrelevant light from passing through the lens. Only light rays that approach your eyes vertically can fit through those openings. The lenses block all the horizontal light waves bouncing off from any surface. As a result of this filtering, the image you see is a bit darker than usual. Objects look crisper and clearer with polarized lenses, and details are easier to see.
  - **Polycarbonate lenses:** Polycarbonate is a specific type of plastic which is very strong and is used for many purposes such as eyeglass lenses, car headlights, and other industrial applications. Polycarbonate is over 200 times stronger than glass and is often thinner than other types of lenses. Since lighter and thinner eyeglasses are less likely to slip off your nose and are more comfortable for everyday wear, polycarbonate lenses are widely used as eyeglass lens.
  - **Transition lenses:** Transition lenses or photochromic lenses darken in the sunlight and lighten in softer light or the dark. These are ideal for sunglasses without having to wear them over your prescription glasses or having to constantly switch between the two. These can also cut down on the harmful glare of electronic devices making it an excellent lens material.
  - **High and special purpose lenses:** Special purpose lenses are wide-angle photographic lenses with different focal lengths or features that change the size of subject matters and are typically used in cameras. They are intended to produce special effects such as including more subject matter – wide angle, making larger images of distant subjects – telephoto, optionally varying image size – zoom and making large images of small objects – macro enlarging.
- (iii) The petitioner manufactures the PUC with refractive index 1.49, 1.50 and 1.56. Other PCNs under the PUC are interchangeable and substitutable with slightly different quality attributes chosen by the user.
- (iv) Lenses of refractive index of 1.56 can substitute lenses of refractive indexes of 1.58 and 1.60 since the thickness of lenses with refractive index 1.56 *vis-à-vis* that of lenses with refractive indexes 1.58 and 1.60 are similar and not evident to the naked eye.
- (v) Lenses with refractive indexes 1.67, 1.70 and 1.74 are not entirely substitutable with lenses with refractive index 1.56 because the difference in the thickness of lenses is evident to the naked eye. Semi-finished ophthalmic lenses of refractive indexes 1.67, 1.70 and 1.74 are significantly more expensive when compared to lens with refractive index 1.56 and occupy a low share in the total imports of semi-finished ophthalmic lenses.
- (vi) Extremely high power like -16.00 or -20.00 (less than 1% world usage) can only be made with high index lenses such as 1.67 and 1.74. Rest of the semi-finished ophthalmic lenses are substitutable by different materials.

- (vii) Semi-finished ophthalmic lenses produced by the petitioner is used for lenses of varied power. An exception being rare cases of extreme high power like -16.00 or -20.00 (which is less than 1% of world usage, and where high index lenses like 1.67 and 1.74 must be used), rest of the lenses in the world are substitutable by different materials.
- (viii) Higher refractive index products can substitute lower refractive index products.
- (ix) The petitioner is suffering injury because of incessant dumping of subject goods from China PR. Therefore, it is not feasible to manufacture lenses with refractive index higher than 1.56. The casting process for production of all refractive indexes is the same. There are changes only in the monomers and additives for production of lenses of particular refractive index.
- (x) The petitioner possesses adequate infrastructural and technical capabilities to produce the PUC with refractive indexes 1.6, 1.67 and 1.74. The petitioner has an entire factory set up enabled for production of lenses with the aforementioned refractive indexes but cannot commence production due to injury caused by import of subject goods from China PR.
- (xi) The petitioner is currently manufacturing the entry stage products in the current segment of lenses and is willing to expand to include the remaining products not forming part of PUC provided it gets support from the Indian Government in imposition of anti-dumping duty.
- (xii) The products manufactured by DI meets all quality norms and are comparable to like products produced internationally. The DI has customers from Europe, Middle East and US and is compliant with stringent quality norms.

### **D.3. Examination by the Authority**

9. Various interested parties have raised a number of issues with regard to the scope of the product under consideration in the present case. Interested parties have sought exclusion of certain product types from the scope of the PUC on the grounds that the domestic industry is not producing and supplying the desired product type. The arguments of interested parties have been examined after taking into account the evidence submitted on record by the interested parties.
10. With regard to the exclusion of semi-finished ophthalmic lenses with refractive index higher than 1.56, the domestic industry has submitted that it is manufacturing semi-finished ophthalmic lenses of refractive index 1.49, 1.50 and 1.56. Additionally, the domestic industry has submitted that semi-finished ophthalmic lenses of refractive index of 1.56 can technically and commercially substitute semi-finished ophthalmic lenses of

refractive indexes of 1.58 and 1.60 since the thickness of lenses with refractive index 1.56 *vis-à-vis* that of 1.58 and 1.60 are similar and not evident to the naked eye.

11. The petitioner has admitted that semi-finished ophthalmic lenses of refractive indexes 1.67, 1.70 and 1.74 are not entirely substitutable with semi-finished ophthalmic lenses with refractive index 1.56 because the difference in the thickness of lenses is evident to the naked eye. Semi-finished ophthalmic lenses of refractive indexes 1.67, 1.70 and 1.74 are significantly more expensive when compared to lenses with refractive index 1.56 and occupy a low share in the total imports of semi-finished ophthalmic lenses. The petitioner has also admitted that extremely high power like -16.00 or -20.00 can only be made with high index lenses such as 1.67 and 1.74.
12. The Authority notes that semi-finished ophthalmic lenses with refractive index of 1.58 and 1.60 are technically and commercially substitutable with semi-finished ophthalmic lenses with refractive index 1.56. However, semi-finished ophthalmic lenses with refractive index of 1.67, 1.70 and 1.74 imported into India cannot be considered as technically and commercially substitutable with semi-finished ophthalmic lenses with refractive index 1.56 manufactured by the domestic industry. Therefore, Authority holds that semi-finished ophthalmic lenses of refractive index higher than 1.60 are excluded from the scope of the product under consideration. All other semi-finished ophthalmic lens with refractive index equal to 1.60 or lower than 1.60 are covered within the scope of the PUC.
13. The domestic industry has claimed that it has the capability to manufacture semi-finished ophthalmic lens with refractive index of 1.67, 1.70 and 1.74. In this regard, the Authority notes that the domestic industry has not produced semi-finished ophthalmic lens with refractive index 1.67, 1.70 and 1.74 and has not provided any positive evidence to substantiate its claim that it has the capability to manufacture semi-finished ophthalmic lens with refractive index 1.67, 1.70 and 1.74. It is also an admitted position that there is a sizeable demand for semi-finished ophthalmic lens having refractive index higher than 1.60, which cannot be catered to by the domestic industry. Therefore, the Authority does not deem it appropriate to cover semi-finished ophthalmic lens with refractive index greater than 1.60 within the scope of the PUC.
14. With regard to the specific request for exclusion of semi-finished ophthalmic lens with refractive index of 1.59 on the ground that it can only be manufactured with 'polycarbonate' material, the Authority notes that the domestic industry has specifically excluded 'polycarbonate lens' from the scope of the PUC. The Authority notes that if semi-finished ophthalmic lens with refractive index of 1.59 is made only using polycarbonate material, there is no requirement to additionally exclude semi-ophthalmic lens with refractive index of 1.59.

15. With regard to the claim that technical description of the PUC should be provided to avoid ambiguity on the imposition of anti-dumping duty by the Customs Authority, the Authority holds to provide the following description for the PUC:

*“Semi-finished ophthalmic lenses are semi-finished blanks which have the front surface of the lens made of ophthalmic quality and the back surface unfinished. Semi-finished blanks are surfaced to the desired prescription powers to produce finished lenses. Semi-finished ophthalmic lenses come in many forms like single vision, bifocal, and multifocal (progressive) types with different refractive indexes, segment styles and sizes.”*

16. The Authority notes the request of the interested parties to provide a description of technical characteristics regarding each excluded category. The Authority holds the following description for the excluded products:

- a) **Polarized lenses:** Polarized lenses have a special chemical molecule which are lined up specifically to block irrelevant light from passing through the lens. Only light rays that approach your eyes vertically can fit through those openings. The lenses block all the horizontal light waves bouncing off from any surface. As a result of this filtering, the image you see is a bit darker than usual. Objects look crisper and clearer with polarized lenses, and details are easier to see.
  - b) **Polycarbonate lenses:** Polycarbonate is a specific type of plastic which is very strong and is used for many purposes such as eyeglass lenses, car headlights, and other industrial applications. Polycarbonate is over 200 times stronger than glass and is often thinner than other types of lenses. Since lighter and thinner eyeglasses are less likely to slip off your nose and are more comfortable for everyday wear, polycarbonate lenses are widely used as eyeglass lens.
  - c) **Transition lenses:** Transition lenses or photochromic lenses darken in the sunlight and lighten in softer light or the dark. These are ideal for sunglasses without having to wear them over your prescription glasses or having to constantly switch between the two. These can also cut down on the harmful glare of electronic devices making it an excellent lens material.
  - d) **High and special purpose lenses:** Special purpose lenses are wide-angle photographic lenses with different focal lengths or features that change the size of subject matters and are typically used in cameras. They are intended to produce special effects such as including more subject matter – wide angle, making larger images of distant subjects – telephoto, optionally varying image size – zoom and making large images of small objects – macro enlarging.
17. Accordingly, the revised scope of product under consideration in the present investigation is as under:

*“The product under consideration is semi-finished ophthalmic lenses made up of plastic. Semi-finished ophthalmic lenses are semi-finished blanks which have the*

*front surface of the lens made of ophthalmic quality and the back surface unfinished. Semi-finished blanks are surfaced to the desired prescription powers to produce finished lenses. Semi-finished ophthalmic lenses come in many forms, single vision, bifocal, and multifocal (progressive) types with different refractive indexes, segment styles and sizes.*

*The following types of products are excluded from the scope of product under consideration:*

- (i) *Semi-finished ophthalmic lenses having refractive index higher than 1.60.*
- (ii) *Polarized lenses* - Polarized lenses have a special chemical molecule which are lined up specifically to block irrelevant light from passing through the lens. Only light rays that approach your eyes vertically can fit through those openings. The lenses block all the horizontal light waves bouncing off from any surface. As a result of this filtering, the image you see is a bit darker than usual. Objects look crisper and clearer with polarized lenses, and details are easier to see.
- (iii) *Polycarbonate lenses* - Polycarbonate is a specific type of plastic which is very strong and is used for many purposes such as eyeglass lenses, car headlights, and other industrial applications. Polycarbonate is over 200 times stronger than glass and is often thinner than other types of lenses. Since lighter and thinner eyeglasses are less likely to slip off your nose and are more comfortable for everyday wear, polycarbonate lenses are widely used as eyeglass lens.
- (iv) *Transition lenses* - Transition lenses or photochromic lenses darken in the sunlight and lighten in softer light or the dark. These are ideal for sunglasses without having to wear them over your prescription glasses or having to constantly switch between the two. These can also cut down on the harmful glare of electronic devices making it an excellent lens material.
- (v) *High and special purpose lenses* - Special purpose lenses are wide-angle photographic lenses with different focal lengths or features that change the size of subject matters and are typically used in cameras. They are intended to produce special effects such as including more subject matter – wide angle, making larger images of distant subjects – telephoto, optionally varying image size – zoom and making large images of small objects – macro enlarging.

*Semi-finished Ophthalmic Lenses are classified under Chapter 90 of the Customs Tariff Act, 1975 under the ITC HS Code 9001.5000. The Customs classification is only indicative and is not binding on the scope of the product under consideration.”*

**D. SCOPE OF DOMESTIC INDUSTRY AND STANDING**

**D.1. Submissions made by the other interested parties**

18. The following submissions have been made by the other interested parties during the course of the investigation:
- (i) As per original petition filed by the applicant, the applicant held a share of \*\*\*\*% of total production of the subject goods in India. However, Techtran Polylenses Limited (“TPL”) was not considered to be a known producer of the subject goods in India in the original petition. In the revised petition filed by the applicant, TPL has been included as a known producer of the subject goods in India. However, despite inclusion of TPL, there has been no change in the share of the applicant in total Indian production.
  - (ii) GKB Ophthalmics Ltd is a 100% Export Oriented Unit (EOU). The applicant has failed to declare its EOU status in its petition initiating the subject investigation. EOU units cannot be treated as a part of the domestic industry for the purpose of an anti-dumping investigation.
  - (iii) As the petitioner is an EOU, only domestic sales of the petitioner should be considered while determining the standing of the domestic industry. For the purpose of injury examination only that portion of the capacity and production as approved by the Development Commissioner concerned can be taken into account.
  - (iv) The petitioner, GKB Ophthalmics Limited in its petition has noted GKB Vision Private Limited as its associate company. The petitioner in its petition has also stated that GKB Vision Private Limited is a known importer of the PUC in India. The Petitioner GKB Ophthalmics Limited and GKB Vision Private Limited have common shareholders and are under the common control of Mr. K. G. Gupta and Mr. Vikram Gupta. It is clear that the petitioner, GKB Ophthalmics Limited is related to a known importer of the subject goods, GKB Vision Private Limited. Therefore, the applicant has no standing as such to file this application in terms of Rule 2(b) of the AD rules.
  - (v) GKB Vision Private Limited has been importing the subject goods from the subject country in large volumes during the injury period including the POI. Therefore, the applicant has no standing as such to file this application in terms of Rule 2(b) of the AD rules.

- (vi) The Authority must examine the volume and value of imports made by the petitioner and its related parties during the POI and the injury period.
- (vii) The Petitioner is also indirectly related to Essilor India Private Limited and Essilor Manufacturing India Private Limited who are importers of the subject goods. Essilor India Private Limited and Essilor Manufacturing India Private Limited collectively hold more than 56% shares in GKB Vision Private Limited as evident from the Financial Statement of GKB Vision Private Limited. Since GKB Vision Private Limited, Essilor India Private Limited, and Essilor Manufacturing India Private Limited are part of the Essilor Group, the petitioner is indirectly related to the Essilor Group, exporters of the PUC from China PR to India and the importers in India.
- (viii) GKB Ophthalmics Limited is in possession of confidential information of GKB Vision Private Limited (an Essilor Group company). It is requested that the Authority must reject any information or data about any Essilor Group company that is presented in this investigation by the petitioner.
- (ix) TPL has not submitted necessary documents in the requisite format to be considered as a supporter in the subject anti-dumping investigation.
- (x) TPL admitted that it had shut down its production and resumed its operations in October 2021. October 2021 is not covered within the POI. Therefore, TPL cannot be considered as a supporter.

## **D.2. Submissions made by the domestic industry**

19. The following submissions have been made by the domestic industry during the course of the investigation:
  - (i) The petitioner is a leading manufacturer of semi-finished ophthalmic lenses with a share of \*\*\*% of the total production in India. This includes the PUC manufactured at its Export Oriented Unit and DTA unit.
  - (ii) The petitioner's collective domestic output constitutes more than 50% of the total production of like article. Thus, the application for initiation of anti-dumping proceedings is made by the domestic industry in terms of Rule 5(3) and Rule 2(b) of the AD Rules.
  - (iii) The petitioner manufactures semi-finished ophthalmic lenses up to a refractive index of 1.56. The petitioner supplies semi-finished ophthalmic lenses to GKB Vision Private Limited, which is an input for their manufacturing operations. Higher refractive index products not manufactured by the petitioner are imported by GKB Vision Private Limited for its business operations.

- (iv) During the Government mandated lock down period of April 2020 to June 2020 in the initial stages of pandemic, the manufacturing facilities of the petitioner were closed and therefore as a *force majeure* exception, GKB Vision Private Limited imported those categories of semi-finished ophthalmic lenses, which it used to procure from the petitioner. These imports were made by GKB Vision Private Limited in exceptional circumstances to safeguard the interest and health of eye patients. Exceptional circumstance leading import of the PUC due to pandemic should not be treated as imports for the purposes of Rule 2(b) of the AD Rules.
- (v) In *State of Gujarat Fertilizers & Chem. Ltd. vs. Addl. Secy. & Designated Authority* [2012 (286) E.L.T. 348 (Cal.)], the Hon'ble High Court observed that the import of subject goods in order to meet consumer demand during a period of disrupted production and in insignificant quantity cannot prejudice the domestic industry. The person engaging in such insignificant import could not be held as an importer in terms of Rule 2(b) of the AD Rules.
- (vi) Consequently, the allegation of GKB Vision Private Limited, an alleged importer of subject goods, being related to the Petitioner is irrelevant as the pre-condition of GKB Vision being an importer in terms of Rule 2(b) of AD Rules would not be satisfied.
- (vii) GKB Ophthalmics Limited has specifically disclosed GKB Vision Private Limited as an Associate Company in the Petition and has specified that GKB Vision Private Limited is not an importer of PUC. Consequently, the claim that Essilor Group, holding shares in GKB Vision Private Limited, is indirectly related to Petitioner and therefore the Petitioner should not be considered as domestic industry in terms of Rule 2(b) of the ADD Rules is also incorrect.
- (viii) The Petitioner has submitted requisite information pertaining to shareholding, management, operational control of GKB Ophthalmics Limited and GKB Vision Private Limited. Petitioner does not hold any share in GKB Vision Private Limited and does not have any operational or managerial control over them. Note to the Explanation to Rule 2(b) states that 'For the purpose of this Explanation, a producer shall be deemed to control another company when the former is legally or operationally in a position to exercise restraint or direction over the latter'. The shareholding pattern shared by GKB Vision Private Limited demonstrates that the majority stake is held by Essilor Group, giving them the right to undertake the operational or managerial control over GKB Vision Private Limited.
- (ix) The meaning of 'control' provided in the Companies Act is not relevant for the purpose of the present anti-dumping investigation and AD Rules. In *Solvay Peroxythai Ltd vs. Union of India* 2018 (363) E.L.T. 743 (Tri. - Del.), it has been held that provision of Companies Act or provision relating to special resolutions are not relevant in the Anti-Dumping matters.



- (x) Essilor Group does not have the authority, operationally or legally, to exercise restraint or direction with respect to the operations or decisions of the Petitioner. Considering this, entities of Essilor Group cannot be related to the Petitioner in terms of Explanation to Rule 2(b) of the AD Rules.

### **D.3. Examination by the Authority**

20. 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”.*

21. The application requesting for imposition of anti-dumping duty has been filed by GKB Ophthalmics Limited, producer of the subject goods in India. The applicant has submitted that it has not imported the subject goods from the subject country during the POI.
22. A number of interested parties have made a submission that the applicant is related to GKB Vision Private Limited, who is a known importer of the subject goods and therefore the applicant is not eligible to constitute domestic industry as per the AD Rules.
23. The Authority notes that GKB Ophthalmics Limited and GKB Vision Private Limited are apparently related to each other. The Authority notes that Essilor group is holding majority shares (\*\*\*) in GKB Vision Private Limited and is having operational and legal control over GKB Vision Private Limited all by itself. However, GKB Vision Private Limited does not have any shareholding in GKB Ophthalmics Limited and therefore Essilor Group is not having indirect control over GKB Ophthalmics Limited. The Authority further notes that GKB Ophthalmics Limited is also not directly related to Essilor Group since Mr. K. G. Gupta and Mr. Vikram Gupta along with other family members are majority shareholders (\*\*\*) of GKB Ophthalmics Limited. Therefore, Essilor Group is not controlling GKB Ophthalmics Limited either directly or indirectly through GKB Vision Private Limited.
24. The Authority further notes that Essilor Group does not require support of GKB Ophthalmics Limited to exercise control over GKB Vision Pvt. Ltd. Therefore, GKB Ophthalmics Limited and Essilor group cannot be said to be related in terms of clause (c) of explanation to Rule 2(b) of AD Rules either.

25. Under Rule 2(b) of the Anti-dumping Rules, the Authority has the discretion to treat a domestic producer as eligible domestic industry when the domestic producer is related to an importer of alleged dumped article into India taking into account the volume of imports, purpose of imports, frequency of imports and essential business activity of the domestic producer.
26. The Authority notes that GKB Vision Private Limited is a producer of finished ophthalmic lenses. For production of finished ophthalmic lenses, GKB Vision Private Limited purchases semi-finished ophthalmic lenses from GKB Ophthalmics Limited upto the refractive indexes produced by the petitioner. GKB Vision Private Limited imports semi-finished ophthalmic lenses of those refractive indexes that are not produced by GKB Ophthalmics Limited. GKB Vision Private Limited also imports finished ophthalmic lenses from China PR.
27. GKB Vision Private Limited has submitted that it has imported semi-finished ophthalmic lenses of those refractive indexes which are produced by GKB Ophthalmics Limited during the POI as a business exigency forced by Covid-19 lockdown. GKB Vision Private Limited has also notified the Authority of its PCN-wise information of imports of the PUC made during the POI as noted in the following table:

| PCN          | Quantity (Pcs) | Value (INR) |
|--------------|----------------|-------------|
| 149BS1       | ***            | ***         |
| 149BS2       | ***            | ***         |
| 150BS1       | ***            | ***         |
| 150BS2       | ***            | ***         |
| 150BS3       | ***            | ***         |
| 156BS1       | ***            | ***         |
| 156BS2       | ***            | ***         |
| <b>Total</b> | ***            | ***         |

28. The applicant has submitted that during the POI, GKB Vision Private Limited imported semi-finished ophthalmic lenses because the applicant who was supplying semi-finished ophthalmic lenses to GKB Vision Private Limited was closed due to government mandated lock down during certain period of the POI. GKB Vision Private Limited was required to import the subject goods in this exceptional situation to continue its business operations.
29. The Authority has verified the information submitted by GKB Vision Private Ltd. and notes that GKB Vision Private Limited is a producer of finished ophthalmic lenses and it purchases semi-finished ophthalmic lenses from GKB Ophthalmics Limited up to the refractive indexes produced by the petitioner. It is further noted that GKB Vision Pvt. Ltd. has imported semi-finished ophthalmic lenses from China PR during the POI but these imports have primarily been during April to June 2020 lockdown period when the petitioner was not able to supply them with semi-finished ophthalmic lenses. Import of

subject goods by GKB Vision Private Limited in order to meet consumer demand during a period of disrupted production cannot prejudice the standing of the petitioner as the domestic industry. The imports made by GKB Vision Private Limited during the POI are not in the normal course of business operation and is not the primary business activity of GKB Vision Private Limited. The imports of the subject goods made during April to June 2020 lockdown period have also not been considered by the Authority in its dumping and injury examination. The Authority holds that imports of subject goods made by GKB Vision Private Limited during April to June 2020 lockdown period would not disentitle GKB Ophthalmics Ltd. to constitute domestic industry in terms of Rule 2(b) of the AD Rules.

30. With regard to the claim of interested parties that GKB Ophthalmics Ltd. is an EOU and only its domestic sales should be considered for the purpose of determination of standing of domestic industry, the Authority notes that only domestic sales of GKB Ophthalmics Ltd. has been considered for determination of standing of GKB Ophthalmics Ltd. as domestic industry.
31. As per the evidence available on record, the applicant's production accounts for a major proportion in the domestic production of the like articles in India. Accordingly, the Authority holds that domestic industry having \*\*\* % share in total production in India constitutes eligible domestic industry having major proportion share in total domestic production within the meaning of Rule 2(b) of the Rules and that the application satisfies the criteria of standing in terms of Rule 5(3) of the Rules.

## **E. CONFIDENTIALITY**

### **E.1. Submissions made by the domestic industry**

32. No submission has been made by the domestic industry with regard to confidentiality issues.

### **E.2. Submissions made by the other interested parties**

33. The following submissions have been made by the other interested parties during the course of investigation:
  - a. The following are the relevant parameters for which the domestic has claimed excessive confidentiality in contravention to Trade Notice No. 10/2018 dated 7<sup>th</sup> September 2018:
    - Write-up on broad stage-wise manufacturing process.
    - Relationship, if any, of the petitioner with foreign producers/exporters/importers/domestic producers of subject goods.
    - R&D expenses.
    - Names of major raw materials used in the production of PUC
    - Country wise estimates of normal value in the petition

- Country wise estimates of export price in the petition
- Funds raised:
  - (a) Equity
  - (b) Loans and Advances
  - (c) Working Capital
  - (d) Others, if any

### **E.3. Examination by the Authority**

34. With regard to confidentiality of information, Rule 7 of Anti-dumping Rules provides as follows:

*(1) "Confidential information: (1) Notwithstanding anything contained in sub-rules (2), (3) and (7) of rule 6, sub-rule(2) of rule 12, sub-rule(4) of rule 15 and sub-rule (4) of rule 17, the copies of applications received under sub-rule (1) of rule 5, or any other information provided to the designated authority on a confidential basis by any party in the course of investigation, shall, upon the designated authority being satisfied as to its confidentiality, be treated as such by it and no such information shall be disclosed to any other party without specific authorization of the party providing such information.*

*(2) The designated authority may require the parties providing information on confidential basis to furnish non-confidential summary thereof and if, in the opinion of a party providing such information, such information is not susceptible of summary, such party may submit to the designated authority a statement of reasons why summarization is not possible.*

*(3) Notwithstanding anything contained in sub-rule (2), if the designated authority is satisfied that the request for confidentiality is not warranted or the supplier of the information is either unwilling to make the information public or to authorise its disclosure in a generalized or summary form, it may disregard such information."*

35. Submissions made by the interested parties with regard to confidentiality, to the extent considered relevant, were examined by the Authority and addressed accordingly. The Authority notes that the information provided by all the interested parties on confidential basis was examined with regard to the 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 other interested parties. Wherever possible, the parties providing information on confidential basis were directed to provide sufficient non- confidential version of the information filed on confidential basis. All interested parties have claimed their business-related sensitive information as confidential.
36. The Authority notes that the domestic industry and the other interested parties have provided non-confidential version of all the information that is relevant for the purpose of the present investigation.

## **F. MISCELLANEOUS SUBMISSIONS**

### **F.1. Submissions made by the other interested parties**

37. Following miscellaneous submissions have been made by the other interested parties:

- i. The petitioner has persistently failed to rectify deficiencies in the petition despite being given ample opportunities. The petitioner has failed to provide units of measurement even in the revised petition in Schedule I - Evidence of Dumping. The Authority must terminate the investigation for lack of evidence in terms of Rule 14(b) of the AD Rules or it must direct the petitioner to withdraw the petition.
- ii. Rule 5(2) of the AD Rules mandates that the application has to be filed in the form as specified by the Authority and should be supported by evidence of (a) dumping; (b) injury (c) causal link. More importantly, the Rule specifies that the application shall be in the format as specified by the Designated Authority. However, the petitioner has neither followed the format provided by the Authority nor provided the documents in the manner prescribed under the rules and various trade notices.
- iii. The petitioner has filed a grossly deficient petition which fails to meet any evidentiary standard established under Rule 5(2) and Rule 5(3) of the AD Rules and Article 5.2 and Article 5.3 of the WTO Agreement on Anti-dumping.
- iv. The Authority must consider quarterly analysis of data and exclude the quarter Apr-June 2020 when there was adverse impact of COVID-19 on the production and demand.
- v. There is an increased need for lenses for protection and correction of vision. Imposing anti-dumping duty will make the eyeglasses even more unaffordable to the users. The cost of the PUC in the selling price of the finished eye wear lens constitutes about 20-30%. Therefore, imposition of anti-dumping duty will increase the price of finished eye wear lens and make it less affordable to people who are suffering from eye problems.
- vi. There is significant revision in the import volume and value of subject goods from China PR in the revised petition when compared to the original petition. Consequently, there has been a significant change in the landed value of the subject goods from China PR in the revised petition when compared to the original petition.
- vii. The petitioner has failed to make proper adjustments for Basic Customs Duty (“BCD”) and Social Welfare Surcharge (“SWS”) to determine the landed value.
- viii. The quality of product sold by the domestic industry was significantly inferior to the products imported from China PR. The selling price of imported PUC is higher than the selling price of the domestic industry.

### **F.2. Submissions made by the domestic industry**

38. Following miscellaneous submissions have been made by the domestic industry:
- i. The petitioner has disclosed requisite information in the prescribed format as applicable on July 26, 2021, and also submitted the additional information as and when sought by the Designated Authority.
  - ii. Trade Notice 10 of 2021, dated August 4, 2021, clarifies that stakeholders will have the option to make submissions as per earlier formats/annexures/questionnaires till October 31, 2021. Therefore, the application submitted by the petitioner on July 26, 2021 in the earlier format was in conformity with the applicable law. The revised petition submitted on April 29, 2022 pursuant to oral hearing is compliant with the new format prescribed for submissions after October 31, 2021.

**F.3. Examination by the Authority**

39. With regard to the submission that the domestic industry has not filed petition in the prescribed format containing all the relevant information, the Authority notes that the domestic industry provided information with respect to most of its economic parameters in the petition filed by them prior to the initiation of the subject investigation. However, submissions were made by many interested parties during the course of the investigation that the petition filed by the domestic industry is deficient and does not contain all the requisite information as per the prescribed format. After examining the claims of the interested parties, the Authority directed the domestic industry to furnish missing information by filing revised petition pursuant to the oral hearing.
40. In this regard, it is noted that the domestic industry is a MSME unit and is not completely familiar with the procedure and data requirements of the petition. Hence, considering this aspect, the Authority gave an opportunity to the domestic industry to rectify the deficiencies in its petition. The domestic industry filed the revised petition within the timelines stipulated by the Authority pursuant to the oral hearing. The Authority has reviewed the revised petition filed by the domestic industry and also the claims of other interested parties regarding some deficiencies in the revised petition. The Authority proposes to hold that the information provided in the revised petition has remedied the deficiencies of the original petition.
41. As regards the claim that quality of the product supplied by the domestic industry is inferior as compared to the quality of imported product, the Authority notes that the domestic industry has sold the subject product consistently in the domestic market and there is no evidence to show that there is any complaint with regard to the quality of the product being supplied by the domestic industry. Moreover, superior quality of the imported product should result in higher price of the imported product as compared to the domestic selling price and cannot justify export of product at the existing prices.

42. With regard to the submission that 1<sup>st</sup> April 2020 – 31<sup>st</sup> March 2021 (12 months) is not representative due to the effects of Covid-19, the Authority holds to exclude the lockdown period of April 2020 to June 2020 in its dumping and injury examination so that the injury, if any, caused to the domestic industry due to lockdown in India is not attributed to the dumped imports from the subject country.

**G. DETERMINATION OF NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN**

43. 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 (b):*

*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.*

**G.1. Submissions made by the other interested parties**

44. The submissions made by the other interested parties with regard to normal value, export price and dumping margin are as follows:
- i. The Authority should consider the information filed by the producers / exporters for determining dumping margin.
  - ii. Determination of normal value for China PR by adopting Thailand as the surrogate country is not appropriate.

- iii. Thailand cannot be considered as an appropriate market economy third country keeping in view the level of development of the country concerned and the product in question. The petition filed by the domestic industry does not provide any information regarding the appropriateness of Thailand as the market economy third country. Development and economies of scale in China PR regarding the PUC cannot be compared with Thailand.
- iv. Article 15 of China's Accession Protocol expired in December 2016 and now, presumption of non-market economy is not automatic. The petitioner is required to prove that a substantial governmental intervention exists in the country, which is thereby preventing calculation of Normal Value (NV) based on fair value of the merchandise.
- v. Daejeon Daemyung Optical (Hangzhou) Co. Ltd., has duly filed a response to MET questionnaire as per the prescribed format and submits that as per proviso to para 8(3) of Annexure I of the Anti-dumping Rule, there is sufficient evidence that market conditions prevail for the responding exporter as supported by detailed explanation and exhibits in its MET Questionnaire Response.
- vi. The petitioner has failed to provide PCN wise export price details for a fair comparison. The Authority should consider export price based on the data provided by the cooperating exporters.

## **G.2. Submissions made by the domestic industry**

- 45. The submissions made by the domestic industry with regard to normal value, export price and dumping margin are as follows:
  - i. China PR is the primary exporter of the PUC and has been exporting to India at significantly low prices, inflicting material injury to the domestic industry.
  - ii. Normal value at which the manufacturer sells the PUC in its domestic market and the price at which the PUC is exported to India supplements the view that China PR should be treated as a non-market economy. Normal value should be determined in accordance with Para 7 and 8 of Annexure I of the Rules.
  - iii. At the time of initiation of the subject investigation, the petitioner has submitted that the normal value should be determined based on export price from Thailand to India. However, it is noted that more than 90% of the imports of the PUC are from China PR. There is no comparable country in terms of volume or value of imports when compared to imports from China PR. Therefore, as a residuary option, normal value should be computed on the basis of cost of production in India.



- iv. Several exporters and importers have claimed that they have exported/imported semi-finished ophthalmic lenses at 2-3 times of the non-injurious price. The petitioner requests such exporters and importers to share declarations that the PUC will not be imported below non-injurious price determined by the Authority.
- v. The dumping margin of PUC imported from China PR is substantial and above *de minimis*.

### **G.3. Examination by the Authority**

46. The Authority sent questionnaires to the known producers/exporters from China PR, advising them to provide information in the form and manner prescribed by the Authority. The following producers/exporters from China PR have filed exporter's questionnaire response:

- (i) Daejeon Daemyung Optical (Hangzhou) Co. Ltd.
- (ii) Conant Optics (Jiangsu) Co., Ltd.
- (iii) Shanghai Conant Optics Co., Ltd.
- (iv) Zhejiang Weixing Optical Co., Ltd.
- (v) Shanghai Weixing Optical Technology Co., Ltd.
- (vi) Carl Zeiss Vision (China) Limited
- (vii) Jiangsu Youli Optics Spectacles Ltd.
- (viii) Chemiles Corporation
- (ix) Jiangsu Future Vision Co., Ltd
- (x) Delta Lens Private Limited
- (xi) Essilor Amara Pte. Ltd
- (xii) Shanghai Essilor Optical Co., Ltd.

47. The Authority has analyzed the submissions made by the interested parties including domestic industry and has accordingly determined the normal value, export price and dumping margin.

### **Determination of Normal Value and Export Price**

48. Article 15 of China's Accession Protocol in WTO 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 PR 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 PR.*
  - c. *The importing WTO Member shall notify methodologies used in accordance with sub paragraph (a) to the Committee on Anti-Dumping Practices and shall notify methodologies used in accordance with sub paragraph (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.”*
49. The applicant has relied upon Article 15(a)(i) of China's Accession Protocol as well as para 7 of the Annexure I of AD Rules. The applicant has claimed that producers in China PR must be asked to demonstrate that market economy conditions prevail in their industry producing the like product with regard to the production and sale of the product under consideration. It has been stated by the applicant that in case the responding Chinese

producers are not able to demonstrate that their costs and price information are market driven, the normal value should be calculated in terms of provisions of paras. 7 and 8 of Annexure- I to the Rules.

50. It is noted that while the provision contained in Article 15(a)(ii) has expired on 11.12.2016, the provision under Article 2.2.1.1 of WTO read with obligation under 15 (a)(i) of the Accession Protocol require criterion stipulated in para 8 of the Annexure I of the Rules to be satisfied through the information/data to be provided in the supplementary questionnaire on claiming the market economy status.
51. The Authority notes that except for Daejeon Daemyung Optical (Hangzhou) Co., Ltd., no other cooperating producer/exporter from China PR has filed a supplementary questionnaire.
52. As none of the other producers from China PR have claimed determination of normal value on the basis of their own domestic sales and cost of production, the normal value has been determined in accordance with paragraph 7 of Annexure I of the AD 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 a market economy third country, or the price from such a third country to other countries, including India, or where it is not possible, 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 the selection. Account shall also be taken within time limits; where appropriate, of the investigation if any made in similar matter in respect of any other market economy third country. The parties to the investigation shall be informed without unreasonable delay the aforesaid selection of the market economy third country and shall be given a reasonable period of time to offer their comments. "*

53. The Authority notes that under the provisions of para 7 of Annexure I, the normal value may be determined on the basis of price or constructed value in a third country, or the price from such country to other countries, including India. However, when such basis is not possible, only then the Authority can determine normal value on any other reasonable basis, including the price paid or payable in India.
54. It is also noted that at the time of initiation of the subject investigation, the normal value has been determined on the basis of the price from Thailand to India, duly adjusted. During the course of the investigation, both the domestic industry as well as the other interested parties have submitted that Thailand price is not representative of the volume

and value of import of the subject goods from China PR. Pursuant to the initiation of the investigation, the Authority has also prescribed PCN methodology for determination of dumping margin. However, the domestic industry has not provided PCN wise details of normal value based on imports from Thailand. The Authority is also not in a position to determine PCN wise normal value based on imports from Thailand because the description of imports from Thailand does not permit segregation of imports into different PCNs as per PCN methodology determined by the Authority. Therefore, the Authority notes that normal value cannot be determined on the basis of the first or second method provided in para 7 of Annexure I. The Authority thus holds to construct normal value based on the third method, i.e., on any other reasonable basis.

55. The Authority holds to construct the normal value for China PR on the basis of cost of production of the domestic industry along with reasonable addition of selling, general and administrative expenses and reasonable profit margin. The constructed normal value so determined for Chinese producers/exporters is mentioned in the dumping margin table.

**Evaluation of MET status of Daejeon Daemyung Optical (Hangzhou) Co., Ltd., China PR**

56. Daejeon Daemyung Optical (Hangzhou) Co., Ltd. (“DDMO”) is a wholly owned subsidiary of Daemyung Optical Co., Ltd. (“DMO”), a Korean Company. The ultimate parent company of the Group is Hoya Corporation, Japan which is listed at Tokyo Stock Exchange.
57. As per Paragraph 8, Annexure I to the Anti-Dumping Rules as amended, the presumption of a non-market economy can be rebutted if the exporter(s) from China PR provides information and sufficient evidence on the basis of the criteria specified in subparagraph (3) in Paragraph 8. The cooperating exporters/producers of the subject goods from China PR are required to furnish necessary information/sufficient evidence as mentioned in subparagraph (3) of paragraph 8 in response to the market economy treatment (MET) questionnaire to enable the Designated Authority to consider the following criteria as to whether: -
- a. The decisions of concerned firms in China PR regarding prices, costs and inputs, including raw materials, cost of technology and labour, output, sales and investment are made in response to market signals reflecting supply and demand and without significant state interference in this regard, and whether costs of major inputs substantially reflect market values;
  - b. The production costs and financial situation of such firms are subject to significant distortions carried over from the former non-market economy system, in particular in relation to the depreciation of assets, other write-offs, barter trade and payment via compensation of debts;
  - c. Such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms; and

d. The exchange rate conversions are carried out at the market rate.

58. The Authority notes the submissions made by DDMO regarding claim of market economy status, questionnaire response along with supplementary questionnaire response regarding the claim of market economy status and additional submissions with regard to the claim of market economy status.
59. In notes to financial statements of DDMO for the year 2020, DDMO has reported their business activities and applicable government regulations/provisions, which is reproduced below:

*“The Company principally engaged in manufacturing, processing, and selling high performance composite optical lens, optical instrument and optical engineering plastics; wholesale and agency commission (excluding auction) of high performance composite optical lenses, optical instruments, optical engineering plastics and other similar products; import and export related services. The above commodities involving quota, license management and special provisions management shall be operated in accordance with the applicable provisions of the state”.*

60. It is clear from the above para that state government is regulating/controlling DDMO business activities through quota, license management and other special provisions.
61. The Authority had requested DDMO to provide information relating to ‘Unemployment Subsidy in accordance with the Notice of Further Improving Unemployment Insurance and Supporting Enterprises to Stabilize Jobs issued by Zhejiang Provincial Department of Finance and Hangzhou Employment Administration and Service Bureau’ and other subsidies received by the DDMO. However, DDMO has failed to provide information related to other subsidies received by them even though as per annual report for the year 2020, the Authority has noted that DDMO has received certain other subsidies which are recorded under subsidies income in the financial statements. The Authority notes that DDMO has also received certain other grants/subsidies from the local government which were reported as a part of Capital Reserve in the financial statements.
62. The Authority notes that DDMO has availed land use rights from the state government. The Authority had requested DDMO to provide evidence/documents to ensure that land use rights availed by DDMO are at market rates. However, DDMO has failed to provide evidence for the prevailing market rates of land use rights.
63. The Authority also notes that the supply of utilities, i.e., electricity and water, are controlled by the government. DDMO has failed to provide evidence for provision of electricity and water at prevailing market rates.

64. In light of the above, the Authority holds not to accept market economy status claimed by DDMO.

### **Export Price**

#### **Daejeon Daemyung Optical (Hangzhou) Co., Ltd.**

65. Daejeon Daemyung Optical (Hangzhou) Co., Ltd. is a producer of the subject goods in China PR. It has exported the subject goods directly to un-related customers in India. Daejeon Daemyung Optical (Hangzhou) Co., Ltd. has provided all the relevant information in the prescribed Exporters questionnaire format.
66. Daejeon Daemyung Optical (Hangzhou) Co., Ltd. has given PCN wise information related to exports of subject goods to India in Appendix 3A of the Exporters questionnaire response. It is noted that Daejeon Daemyung Optical (Hangzhou) Co., Ltd. has exported \*\*\* pieces of subject goods to un-related customers in India. Daejeon Daemyung Optical (Hangzhou) Co., Ltd. has claimed adjustments on accounts of ocean freight, insurance, inland transportation, port and other related expenses, packing cost, rebate, and credit cost, which have been allowed by the Authority.
67. The Authority has verified the PCN wise information of the exports given in the questionnaire response filed by the producers/exporters. The weighted average PCN wise ex-factory export price as determined is given in the dumping margin table.

#### **Conant Optics (Jiangsu) Co., Ltd. and Shanghai Conant Optics Co., Ltd**

68. Conant Optics (Jiangsu) Co., Ltd. and Shanghai Conant Optics Co., Ltd. are related producers of the subject goods in China PR. They have exported the subject goods directly and also through each other to un-related customers in India. Conant Optics (Jiangsu) Co., Ltd. and Shanghai Conant Optics Co., Ltd. have provided all the relevant information in the prescribed Exporters questionnaire format.
69. Conant Optics (Jiangsu) Co., Ltd. and Shanghai Conant Optics Co., Ltd. have given PCN wise information related to exports of subject goods to India in Appendix 3A and 3B of the Exporters questionnaire response. It is noted that Conant Optics (Jiangsu) Co., Ltd. has exported \*\*\* pieces of the subject goods directly and \*\*\* pieces through Shanghai Conant Optics Co., Ltd. to un-related customers in India. Shanghai Conant Optics Co., Ltd. has exported \*\*\* pieces of subject goods directly and \*\*\* pieces through Conant Optics (Jiangsu) Co., Ltd. to un-related customers in India. All the exports to India are on FOB basis. Conant Optics (Jiangsu) Co., Ltd. and Shanghai Conant Optics Co., Ltd. have claimed adjustments on accounts of port and other related expenses, bank charges and credit cost, which have been allowed by the Authority.
70. The Authority has verified the PCN wise information of the exports given in the questionnaire response filed by the producers/exporters. The PCN wise export price at

ex-factory level has been compared with the PCN wise normal value to arrive at PCN wise dumping margin. Thereafter, the weighted average dumping margin for Conant Optics (Jiangsu) Co., Ltd. and Shanghai Conant Optics Co., Ltd has been determined and the same is shown in the dumping margin table.

**Zhejiang Weixing Optical Co., Ltd. and Shanghai Weixing Optical Technology Co., Ltd.**

71. Zhejiang Weixing Optical Co., Ltd. is a producer of the subject goods in China PR. It has exported the subject goods to unrelated customers in India through a related trading company, Shanghai Weixing Optical Technology Co., Ltd. Zhejiang Weixing Optical Co., Ltd. and Shanghai Weixing Optical Technology Co., Ltd. have provided all the relevant information in the prescribed Exporters questionnaire format.
72. Zhejiang Weixing Optical Co., Ltd. and Shanghai Weixing Optical Technology Co., Ltd. have given PCN wise information related to exports of subject goods to India in Appendix 3A and 3B of the Exporters questionnaire response. It is noted that Zhejiang Weixing Optical Co., Ltd. has exported \*\*\* pieces of subject goods through Shanghai Weixing Optical Technology Co., Ltd. to un-related customers in India. All the exports to India are on FOB basis. Zhejiang Weixing Optical Co., Ltd. and Shanghai Weixing Optical Technology Co., Ltd have claimed adjustments on accounts of inland transportation, port and other related expenses, bank charges and credit cost, which have been allowed by the Authority.
73. The Authority has verified the PCN wise information of the exports given in the questionnaire response filed by producers/exporters. The PCN wise export price at ex-factory level has been compared with the PCN wise normal value to arrive at PCN wise dumping margin. Thereafter, the weighted average dumping margin for Zhejiang Weixing Optical Co., Ltd has been determined and the same is shown in the dumping margin table.

**Carl Zeiss Vision (China) Ltd. and Carl Zeiss India (Bangalore) Pvt. Ltd.**

74. Carl Zeiss Vision (China) Ltd. is a producer of the subject goods in China PR. It has exported the subject goods to India to its related importer/user Carl Zeiss India (Bangalore) Pvt. Ltd. Carl Zeiss Vision (China) Ltd. and Carl Zeiss India (Bangalore) Pvt. Ltd. have provided all the relevant information in the prescribed questionnaire formats.
75. Carl Zeiss Vision (China) Ltd. has given PCN wise information related to exports of subject goods to India in Appendix 3A of the Exporters questionnaire response. It is noted that Carl Zeiss Vision (China) Ltd. has exported \*\*\* pieces of subject goods to its related importer/user Carl Zeiss India (Bangalore) Pvt. Ltd. in India. Carl Zeiss Vision (China)

Ltd. has claimed adjustments on accounts of ocean freight, insurance and credit cost, which have been allowed by the Authority.

76. The Authority has verified the PCN wise information of the exports given in the questionnaire response filed by producers/exporters and importer/user. The PCN wise export price at ex-factory level has been compared with the PCN wise normal value to arrive at PCN wise dumping margin. Thereafter, the weighted average dumping margin for Carl Zeiss Vision (China) Ltd. has been determined and the same is shown in the dumping margin table.

**Jiangsu Youli Optics Spectacles Co., Ltd., Chemilens (Jiaxing) Co., Ltd., Chemiles Corporation, Jiangsu Future Vision Co., Ltd., Essilor Amara Pte. Ltd., See World Optical Co., Ltd., Shanghai Essilor Optical Co., Ltd., Delta Lens Private Limited, Essilor India Private Limited, Essilor Manufacturing India Private Limited, GKB Vision (P) Ltd and Vision Rx Labs Private Limited (Hereinafter collectively referred to as “Essilor Group”)**

77. As per the information submitted by Essilor Group, Chemilens (Jiaxing) Co., Ltd., Jiangsu Future Vision Co., Ltd., Jiangsu Youli Optics Spectacles Co., Ltd. and See World Optical Co., Ltd. are related producers of subject goods in the Essilor Group.
78. Jiangsu Youli Optics Spectacles Co., Ltd. has exported the subject goods directly to India. Chemilens (Jiaxing) Co., Ltd. has exported the subject goods to India through its related exporter Chemiles Corporation. Jiangsu Future Vision Co., Ltd. has exported the subject goods to India through its related producer/exporter See World Optical Co., Ltd. See World Optical Co., Ltd. has exported the subject goods directly to India as well as through its related exporter Essilor Amara Pte. Ltd., Singapore. Shanghai Essilor Optical Co., Ltd. is the related trader/exporter of the subject goods within the Essilor Group who has exported maximum quantity of PUC to India. All the above-mentioned companies have provided information in the Exporters questionnaire format.
79. From the questionnaire responses filed by companies in the Essilor Group, it has been noted that Essilor Group has exported \*\*\* pieces of subject goods directly and through related exporters to India (excluding the exports made to India by Shanghai Essilor Optical Co., Ltd. purchased from Danyang ILT Optics Co., Ltd.)
80. In the questionnaire response filed by Shanghai Essilor Optical Co., Ltd., it has been claimed that Shanghai Essilor Optical Co., Ltd. has purchased the subject goods from an unrelated producer Danyang ILT Optics Co., Ltd. These subject goods purchased from Danyang ILT Optics Co., Ltd. have been resold/exported by Shanghai Essilor Optical Co., Ltd. to India through Essilor Amara Pte. Ltd., Singapore. However, Danyang ILT Optics Co., Ltd. has not participated in the subject investigation.



81. The Authority has noted that during the POI, Shanghai Essilor Optical Co., Ltd. has purchased \*\*\*% of the subject goods exported to India from Danyang ILT Optics Co., Ltd. and sold the same to its related entity namely Essilor Amara Pte. Limited at a loss. The same goods were then resold/exported by Essilor Amara Pte. Limited to India at a profit. Shanghai Essilor Optical Co., Ltd. and Essilor Amara Pte. Limited taken together have exported the subject goods to India at a loss.
82. A simple web-search by the Authority showed that Danyang ILT Optics Co., Ltd. is a group company of Essilor Group. Annual Report of See World Optical Co., Ltd. for the year 2017 also noted that Danyang ILT Optics Co., Ltd. is related to Essilor Group. From the questionnaire response filed by Shanghai Essilor Optical Co., Ltd., the Authority noted that entire quantity of \*\*\* pieces of the subject goods exported to India by Shanghai Essilor Optical Co., Ltd. through its related exporter Essilor Amara Pte. Ltd., Singapore was purchased by Shanghai Essilor Optical Co., Ltd. from Danyang ILT Optics Co., Ltd. Considering these facts about significant involvement of Danyang ILT Optics Co., Ltd. in the business of subject goods of Essilor Group, the Authority felt it necessary to request for more details and clarifications from Essilor Group to understand the relationship between Danyang ILT Optics Co., Ltd. and Essilor Group.
83. Accordingly, the Authority issued a deficiency/desk verification request letter dated 6<sup>th</sup> April 2022 to Essilor Group requesting for detailed information regarding relationship status between Essilor Group and Danyang ILT Optics Co., Ltd. In response to the letter issued by the Authority, Essilor Group informed that Danyang ILT Optics Co., Ltd. was a group company of Essilor Group until 14<sup>th</sup> November 2018 but thereafter, Essilor Group had withdrawn its investment and shareholding in Danyang ILT Optics Co., Ltd.
84. The Authority further noted from the review of Annual reports of Shanghai Essilor Optical Co., Ltd. for the years 2018, 2019 & 2020 that Shanghai Essilor Optical Co., Ltd. along with other entities in the group created a fund and extended inter-company working capital loans to Danyang ILT Optics Co., Ltd. from such fund at low rate of interest.
85. Therefore, the Authority issued another letter dated 7<sup>th</sup> June 2022 enquiring about any direct or indirect financial or contractual links between Danyang ILT Optics Co., Ltd. and Essilor Group. Essilor Group informed that some inter-company working capital loans were extended by Shanghai Essilor Optical Co., Ltd. to Danyang ILT Optics Co., Ltd., at concessional interest up to 14<sup>th</sup> November, 2018 only and only those loans were outstanding during the period of investigation.
86. To fully understand the relationship between Danyang ILT Optics Co., Ltd. and Essilor group, the Authority specifically requested for Annual reports of Danyang ILT Optics Co., Ltd. in the letter dated 7<sup>th</sup> June 2022. However, Essilor Group did not provide the Annual reports of Danyang ILT Optics Co., Ltd.

87. The Authority notes that Question 7 of Part 1 of Section A of the exporter questionnaire requires disclosure of any financial or contractual links and joint ventures with any other company.
- Specify in detail any financial or contractual links and joint ventures with any other company concerning Research and Development, production, sales, licensing, technical and patent agreements for the product under investigation and attach copies of the agreement accompanied by an English translation.*
88. Shanghai Essilor Optical Co., Ltd. in its questionnaire response simply noted that “*there is no such link or joint venture with any other company as described in the question*”. This response was contrary to the facts disclosed later by Shanghai Essilor Optical Co. Ltd. Working capital loans by Shanghai Essilor Optical Co., Ltd. and other companies in the group to Danyang ILT Optics Co., Ltd. should have been disclosed by Essilor Group upfront in response to Question 7 of Part 1 of Section A of the exporter questionnaire. This information was also not provided by Essilor Group in response to the deficiency letter dated 6<sup>th</sup> April 2022.
89. The Authority notes that in the absence of annual reports of Danyang ILT Optics Co., Ltd., the Authority is unable to examine further information about the terms & conditions of the working capital loans extended by Shanghai Essilor Optical Co., Ltd. and other companies to Danyang ILT Optics Co., Ltd. and also about relationship between Danyang ILT Optics Co., Ltd. and Essilor Group.
90. The Authority also noted from the information provided by Essilor Group in response to the letter dated 7<sup>th</sup> June 2022 that even the subject goods exported to third countries even by Shanghai Essilor Optical Co., Ltd. have been entirely purchased from Danyang ILT Optics Co., Ltd.
91. Regarding the claim of Essilor Group that Danyang ILT Optics Co., Ltd. has not been a group company of Essilor Group after 14<sup>th</sup> November 2018, the Authority notes that Essilor group had in its response to the letter dated 6<sup>th</sup> April 2022 informed that \*\*\*% of the shares of Danyang ILT Optics Co., Ltd. were held by Essilor International company within the Essilor Group until 14<sup>th</sup> November 2018 and balance \*\*\*% shares were held by Danyang Shuoshi Optical Glasses Co., Ltd and that Essilor International sold its complete shareholding in Danyang ILT Optics Co., Ltd. to Danyang Shuoshi Optical Glasses Co., Ltd. on 14<sup>th</sup> November 2018. Essilor group did not provide any further information about this issue during the course of entire investigation.
92. As no further information was submitted by the Essilor Group, the Authority gathered information available in public domain in the form of ‘Enterprise Credit Information Publicity Report’ (credit report) published by National Enterprise Credit Information Publicity System, Government of China PR. Credit report shows that 80% of the shares of Danyang ILT Optics Co., Ltd. held by Essilor International were indeed sold to

Danyang Shuoshi Optical Glasses Co., Ltd. on 14<sup>th</sup> November 2018. However, the credit report also notes that the same 80% shares were pledged to Shanghai Essilor Optical Co., Ltd. (company within the Essilor Group) by Danyang Shuoshi Optical Glasses Co., Ltd. on 16<sup>th</sup> November 2018 itself. This crucial information relating to pledge of shares of Danyang ILT Optics Co., Ltd. by Danyang Shuoshi Optical Glasses Co., Ltd. to Shanghai Essilor Optical Co., Ltd. has not been disclosed to the Authority by the Essilor Group during the course of the entire investigation. The Authority also informed Essilor Group vide email dated 27<sup>th</sup> September 2022 that crucial information relating to pledge of shares of Danyang ILT Optics Co. Ltd. to Shanghai Essilor Optical Co. Ltd. has come to the notice of the Authority and granted time till 28<sup>th</sup> September 2022 to provide response, if any. In response, Tripartite Equity Pledge Agreement dated 13 July 2018 between Danyang Shuoshi Optics Co. Ltd., Shanghai Essilor Optical Co. Ltd. & Danyang ILT Optics Co. Ltd. was received by the Authority along with the written submission from Essilor Group explaining the terms and conditions of Equity Pledge Agreement. Essilor Group did not claim that this information was not necessary or that it was already disclosed to the Authority during the course of the investigation.

93. The review of Equity Pledge Agreement shows that \*\*\*% shares of Danyang Shuoshi Optics Co. Ltd., held by Essilor International were transferred to Danyang Shuoshi Optics Co. Ltd., pursuant to the Equity Transfer Agreement dated 13 July 2018 and were pledged to Shanghai Essilor Optical Co. Ltd. to secure the loan from Shanghai Essilor Optical Co. Ltd. worth RMB \*\*\* (approx. INR \*\*\*). There can be no justification for withholding this crucial information from the Authority. At the very least, this information along with Equity Pledge Agreement should have been provided in response to Question 7 of Part 1 of Section A of the exporter questionnaire response, which specifically requests information regarding financial and contractual link along with corresponding agreement. In that case, Authority would have got the opportunity to inquire and examine further the nature of relationship between Danyang ILT Optics Co. Ltd. and Essilor Group. This information was also not disclosed in response to the two deficiency letters issued by the Authority which specifically inquired about all the details of financial and contractual relationship between Danyang ILT Optics Co. Ltd. & Shanghai Essilor Optical Co. Ltd. Essilor Group omitted disclosure of Equity Pledge Agreement dated 13 July 2018 even when it informed to the Authority about the equity transfer pursuant to the Equity Transfer Agreement dated 13 July 2018. This non-disclosure of information until 27<sup>th</sup> September 2022 has shown that Essilor Group attempted to withhold this information and has not acted to the best of its abilities in providing information exclusively available to it and which has material bearing on the outcome of the investigation. Thus, Authority considers it appropriate to apply facts available in terms Rule 6(8) of the AD Rules due to non-disclosure of complete information upfront in the questionnaire response and only partial and selective disclosure of information favourable to Essilor Group at later stage in response to the deficiency letters.

94. The facts available indicate that the rights are conferred on Shanghai Essilor Optical Co. Ltd. under the Equity Pledge Agreement to sale, auction, dispose the pledged equity in event of default of loan repayment by Danyang ILT Optics Co. Ltd. Thus, transfer of shares by Essilor International in Danyang ILT Optics Co. Ltd. was only one part of the full arrangement agreed between Shanghai Essilor Optical Co. Ltd., Danyang ILT Optics Co. Ltd. and Danyang Shuoshi Optics Co. Ltd. The full arrangement required pledging back of shares sold by Essilor International in Danyang ILT Optics Co. Ltd. to Shanghai Essilor Optical Co. Ltd. Thus, selling of shares by Essilor International in Danyang ILT Optics Co. Ltd. has not led to cessation of control of Essilor Group in Danyang ILT Optics Co. Ltd. as is ordinarily expected in case of withdrawal of shareholding. Based on facts available, the Authority is of the view that Essilor Group continues to control Danyang ILT Optics Co. Ltd indirectly.
95. The Authority is thus constrained to observe that Essilor Group has either provided partial information concerning Danyang ILT Optics Co. Ltd. to the Authority during the course of investigation and did not provide necessary information within reasonable period and accordingly, the Authority has proceeded on the basis of facts available as follows:
- Essilor Group claimed that Danyang ILT Optics Co., Ltd. was a group company of Essilor Group until November 2018 and thereafter Essilor group had withdrawn its investment and shareholding in Danyang ILT Optics Co., Ltd. Shanghai Essilor Optical Co., Ltd. along with other entities in the group had created a fund and had extended inter-company working capital loans to Danyang ILT Optics Co., Ltd from the fund at low rate of interest, which remained outstanding after November 2018 and even during the period of investigation.
  - The information relating to pledge of shares of Danyang ILT Optics Co., Ltd. by Danyang Shuoshi Optical Glasses Co., Ltd. to Essilor group had not been disclosed to the Authority till 27 September 2022 by the Essilor group. As per facts available, transfer of shares by Essilor International in Danyang ILT Optics Co. Ltd. has not led to cessation of control of Essilor Group in Danyang ILT Optics Co. Ltd. as claimed by Essilor Group because Shanghai Essilor Optical Co. Ltd. still controls Danyang ILT Optics Co. Ltd. indirectly.
  - Shanghai Essilor Optical Co., Ltd. has purchased \*\*\*% of the subject goods from Danyang ILT Optics Co., Ltd. and then resold the same to India through Essilor Amara Pte. Limited. Shanghai Essilor Optical Co., Ltd. and Essilor Amara Pte. Limited taken together have exported the subject goods to India at a loss. No cogent reasons has been given by Essilor Group as to why they would purchase the subject goods at a higher price from an unrelated party and then resell the same to India at a loss.
  - The volume of exports of the subject goods to India produced by Danyang ILT Optics Co., Ltd. (\*\*\*) Pieces) is much more than the volume of exports of subject goods to India produced by all the other producers in the Essilor Group (\*\*\*) pieces).

- The average landed price of the subject goods produced and exported to India by Danyang ILT Optics Co., Ltd. through Shanghai Essilor Optical Co., Ltd. is much lower than the landed value of subject goods produced and exported to India by Essilor group.
  - Despite a specific request made by the Authority, Essilor group has not provided the annual reports of Danyang ILT Optics Co., Ltd. to the Authority, which would have provided clear guidance as to the relationship between Danyang ILT Optics Co., Ltd. and Essilor Group. In the absence of annual reports of Danyang ILT Optics Co., Ltd., the Authority has determined the fact regarding relationship between Danyang ILT Optics Co., Ltd. and Essilor Group based on evidence available before the Authority.
  - Essilor Group has not provided complete and timely information with regard to shareholding in Danyang ILT Optics Co., Ltd., working capital loan extended by Shanghai Essilor Optical Co., Ltd. and pledging of shares of Danyang ILT Optics Co., Ltd. to Shanghai Essilor Optical Co., Ltd. to the Authority in exporter questionnaire response. As a result, the burden was placed on the Authority to continuously look for necessary information and inquire about the same with Essilor Group.
96. In view of the above observations, the Authority holds that the claim of Essilor Group that Danyang ILT Optics Co., Ltd. is an unrelated producer of subject goods cannot be clearly established. Since, Danyang ILT Optics Co., Ltd. has not participated in the present anti-dumping investigation and has not filed questionnaire response the Authority holds that no individual dumping margin and injury margin can be determined for Essilor group.
97. In addition, the Authority reviewed the Annual reports of Shanghai Essilor Optical Co., Ltd. and Jiangsu Youli Optics Spectacles Co., Ltd. for the year 2020 and noted that there were other related entities within Essilor Group in China PR, namely, Jiangsu Wanxin Optical Co., Ltd., Jiangsu Creaksy Optical Co., Ltd. and Jiangsu Governor Dragon Optical Co., Ltd., which were also engaged in production and/or sale of the subject goods. As per Question 6 of Part 1 of Section A of the exporter questionnaire response, producer/exporter participating in an anti-dumping investigation is required to provide details of its affiliations, including parent companies, subsidiaries and all other related companies whether or not involved with the product under investigation along with the names and addresses, telephone, fax numbers and Email address. Question 6 of Part 1 of Section A of the exporter questionnaire response is reproduced below:

*Outline your company's affiliations, including parent companies, subsidiaries and all other related companies whether or not involved with the product under investigation along with the names and addresses, telephone, fax numbers and Email address. Specify the activities of each related company. In addition, please specifically identify all related companies which are involved in product under*

*consideration or supply you with raw materials/ utilities used in the manufacture of the product under investigation or on whose behalf you sell the product subject to this proceeding. (In all these cases, please describe the nature of your relationship).*

98. Essilor Group in its reply to Question 6 of Part 1 of Section A in their questionnaire responses has provided Exhibit A-6 (World-wide Corporate Structure and Affiliations), which seemingly includes names of all related entities of Essilor Group. However, Essilor Group has not furnished details of Jiangsu Wanxin Optical Co., Ltd., Jiangsu Creaksy Optical Co., Ltd. and Jiangsu Governor Dragon Optical Co., Ltd. in China PR who are engaged in production and/or sale of the subject goods even though this information was specifically required to be provided.
99. Thus, Essilor Group did not provide necessary information to the Authority in the questionnaire response and the Authority had to obtain relevant information from Annual reports, web research and information available in public domain. In anti-dumping investigations, it is necessary that names of are related parties engaged in production of subject goods in the subject country are provided to the Authority so that Authority can examine independently which of these related parties are engaged in production and or export of subject goods to India the investigation.
100. When the fact regarding non-disclosure of other related entities engaged in production/sales of subject goods was brought to the notice of Essilor Group, they accepted that Jiangsu Creaksy Optical Co., Ltd. is engaged in production of subject goods but claimed that it has not exported subject goods to India and therefore existence of Jiangsu Creaksy Optical Co., Ltd. was not disclosed in questionnaire response in reply to Question 6 of Part 1 of Section A in terms of Trade Notice 06/2021. The Authority notes that Trade Notice 06/2021 nowhere specifies that in response to Question 6 of Part 1 of Section A, names of only those related entities who have exported the subject goods to India need to be provided.
101. Essilor Group also accepted that Jiangsu Wanxin Optical Co., Ltd. is engaged in production of subject goods in China PR but claimed that it has only exported finished lenses to India during the POI. Essilor Group also provided transaction wise details of finished lenses exported to India by Jiangsu Wanxin Optical Co., Ltd. The Authority has reviewed this information and has noted that Jiangsu Wanxin Optical Co., Ltd. has exported \*\*\* refractive index lens to India at an average price of Rs. \*\*\* per piece. It is not clear to the Authority how Jiangsu Wanxin Optical Co., Ltd. has exported finished lenses to India at a price even lower than price of semi-finished lenses. Average import price of semi-finished lenses into India during POI is Rs. 70 per piece. Since the existence of Jiangsu Wanxin Optical Co., Ltd. as a related producer of subject goods was not disclosed upfront and even the information regarding exports by Jiangsu Wanxin Optical Co., Ltd. to India provided at a later stage is doubtful given the extremely low price of

such exports, the claim of Essilor Group that exports made by Jiangsu Wanxin Optical Co., Ltd. during the POI are of finished lenses cannot be relied upon.

102. When the fact regarding non-disclosure of other related entities engaged in production/sales of subject goods was brought to the notice of Essilor Group, they claimed specifically with regard to Jiangsu Governor Dragon Opticals Co., Ltd. that it only manufactures contact lenses. However, the Authority noted from the product list available at the website of the Jiangsu Governor Dragon Opticals Co., Ltd. that it also produces semi-finished lenses.
103. In view of the above, it is clear that Essilor group has not provided necessary information regarding related parties in the exporter questionnaire responses filed by them and the clarifications provided by Essilor Group are insufficient. Essilor Group did not disclose about the relationship of Essilor Group with Danyang ILT Optics Co. Ltd. in the initial questionnaire response. Also, Essilor Group did not disclose about the financial and/or contractual link of Essilor Group with Danyang ILT Optics Co. Ltd. upfront in the initial questionnaire response. Essilor Group also did not disclose names of all related parties involved in the production of subject goods in China PR in the initial questionnaire response. Essilor Group disclosed partial information when Authority itself discovered facts and brought it to the notice of Essilor Group. Essilor Group has not disclosed at all about the pledging of shares of Danyang ILT Optics Co. Ltd. to Shanghai Essilor Optical Co., Ltd. on 16<sup>th</sup> November 2018.
104. Thus, Essilor Group has provided partial information in the exporter questionnaire responses filed by them. In anti-dumping investigations, it is of utmost importance that information relating to related parties during injury investigation period, their actual exports to India and other relevant information are provided by the producer/exporter to the Authority.
105. Rule 6(8) of the AD Rules provides that 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 Authority may record its findings on the basis of the facts available and make such recommendations to the Central Government as it deems fit under such circumstances.
106. Therefore, in terms of Rule 6(8) of the AD Rules, the Authority holds Essilor Group as non-cooperating producers/exporters. Authority has proceeded based on facts available and is unable to determine individual dumping margin and injury margin for exports made by Essilor Group.

**Export Price for all other producers and exporters**

107. The export price for all other non-cooperating producers and exporters from China PR is proposed to be determined as per facts available in terms of Rule 6(8) of the Rules and the same is mentioned in the dumping margin table below.

#### **Dumping Margin**

108. Considering the normal value and export price determined, as explained above, it is noted that the dumping margin for producers/exporters from China PR is more than the de-minimis limit prescribed under the Rules except for Conant Optics (Jiangsu) Co., Ltd., Shanghai Conant Optics Co., Ltd., Zhejiang Weixing Optical Co., Ltd., Carl Zeiss Vision (China) Limited and Daejeon Daemyung Optical (Hangzhou) Co., Ltd.

**DUMPING MARGIN TABLE**

| S. No. | Producer/Exporter   | Normal Value (Rs/Pc) | NEP (Rs/Pc) | Dumping Margin (Rs/Pc) | Dumping Margin % | Range    |
|--------|---|----------------------|-------------|------------------------|------------------|----------|
| 1.     | a. Conant Optics (Jiangsu) Co., Ltd.<br>b. Shanghai Conant Optics Co., Ltd. | ***                  | ***         | ***                    | ***              | Negative |
| 2.     | Zhejiang Weixing Optical Co., Ltd.  | ***                  | ***         | ***                    | ***              | Negative |
| 3.     | Carl Zeiss Vision (China) Limited   | ***                  | ***         | ***                    | ***              | Negative |
| 4.     | Daejeon Daemyung Optical (Hangzhou) Co., Ltd.                               | ***                  | ***         | ***                    | ***              | Negative |
| 5.     | All others  | ***                  | ***         | ***                    | ***              | 30-40    |

#### **H. METHODOLOGY FOR INJURY DETERMINATION AND EXAMINATION OF INJURY AND CAUSAL LINK**

109. Rule 11 of the Rules read with Annexure-II 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...*". In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.



110. The Authority in its examination has evaluated the injury parameters which are required under Rule 11 and Annexure II of the Rules.

#### **H.1. Submissions made by the other interested parties**

111. Following submissions have been made by the other interested parties with regard to injury suffered by the domestic industry and the causal link:

- i. Since the data with regard to the applicant's domestic sales entitlement as a 100% EOU has not been provided, no meaningful examination of its claim of injury and causal link with alleged dumped imports can be carried out by the Authority.
- ii. Due to incorrect representation of volume of imports of the subject goods from China PR, total demand of subject goods is also unreliable.
- iii. The import of the subject goods has declined drastically in the injury investigation period. The decrease in imports is consistent throughout the injury period. This shows that there is no volume effect due to the imports from China PR.
- iv. Production, domestic sales and profit before tax of the petitioner in the POI was lower as compared to all the three previous years. The domestic industry has witnessed this significant deterioration in the POI despite substantial decline in the import of the subject goods from China PR during the POI.
- v. The production has increased from 2017-18 to 2018-19, after which it has reduced in 2019-20 and the POI. The sales have also shown a similar trend to production. The demand in India had increased from 2017-18 to 2018-19 before a reduction in 2019-20 and the POI. Therefore, it is clear that the decrease in production and sales is attributable to the decrease in the demand.
- vi. The capacity of the petitioner is not sufficient to fulfil the domestic demand which is resulting in a demand-supply gap. The import from the subject country is therefore necessary to fill in the demand-supply gap.
- vii. The finance costs and depreciation and amortisation expenses are very high during the injury investigation period resulting in losses. The petitioner is earning profits after excluding interest and depreciation. The profitability has been increasing during the injury period. Further, the petitioner's cash profits have also increased during the POI.
- viii. The analysis of profitability based on the annual report of the petitioner shows a different picture in comparison to the data reported in the petition. There seems to be an apparent contradiction in the values reported in the petition and the Annual report of the petitioner.

- ix. Out of the mandatory parameters prescribed in para (iv) of Annexure II, most of the parameters have shown improvement in the POI as compared to the base year. An objective examination of relevant economic parameters shows that there is no injury to the domestic industry.
- x. The performance of the domestic industry during the POI would have been impacted the most during April 2020 to June 2020 when a strict lockdown was imposed pan India. Any assessment of the injury or likelihood of injury cannot be carried out based on the POI as defined in the Initiation Notification.

## **H.2. Submissions made by the Domestic industry**

112. The submissions of the domestic industry with regard to injury and causal link are as follows:

- i. The domestic industry has suffered material injury in the form of low-capacity utilization. This has resulted in low market share. Price of the subject goods remain depressed due to price undercutting and price underselling caused by dumped imports of the PUC from China PR.
- ii. The petitioner has made significant investments for increasing production to match with the current demand and adopt cost-effective methods for sale of the PUC in the local market as well as international market. It is to be noted that the petitioner is globally competitive and changes in technology or competition amongst the domestic producers are not the cause of injury.
- iii. Absence of fair return on investments has eventually led to lay-off of employees. The petitioner had to lay-off \*\*\* of its hardworking and experienced employees in Q1 of 2019 due to reduction in sales.
- iv. As the landed value of the dumped PUC goods has considerably depressed the selling price, the petitioner had to significantly undercut its price to be at par with the dumped PUC. This has become an essential step in order to stay competitive in the Indian market. If no anti-dumping duty is recommended, it will discourage the petitioner from contributing to the “Make in India” initiative.
- v. With the Covid-19 outbreak and consequent restrictions on operations, the domestic industry has been further impacted and making it difficult to operate in the market. The petitioner did not experience any other constraints related to raw materials shortage, power shortage, temporary shutdown of operations, lack of adequate capacity or investment constraints, etc. with respect to production or sales of the subject goods during the period under consideration.

- vi. Due to low priced imports from China PR, the domestic industry has to stay dependent on financial institutions for borrowing funds to survive in the market and meet its day-to-day expenses. This has ultimately led to a steep increase in the finance and interest costs having an overall impact on the profitability.
- vii. The petitioner has invested and will continue to invest in technological advancements as used by other manufacturers in exporting countries and adopt cost-effective methods for sale of the PUC in the local market as well as international market.
- viii. There exists a huge intermediary network of the spectacle opticians and there is a significant margin between the cost of semi-finished ophthalmic lenses and the final product in the form of finished spectacles. Value of the PUC is negligible in comparison to the value at which the final product is sold to the end customer.

### **H.3. Examination by the Authority**

- 113. The submissions made by the domestic industry with regard to the injury and causal link related issues have been examined. The injury analysis made by the Authority hereunder ipso facto addresses the various submissions made by the interested parties.
- 114. The Authority has taken note of the arguments and counterarguments of all the interested parties with regard to injury to the domestic industry. The injury analysis so made by the Authority hereunder addresses the various submissions made by the interested parties.
- 115. With regard to the submission that alleged injury to the domestic industry is due to other reasons and there is no injury as per statements in annual reports of the domestic industry, the Authority notes that the injury analysis carried out hereunder is self-explanatory.
- 116. Rule 11 of Antidumping Rules read with Annexure II 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...". In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. For the examination of the impact of the dumped imports on the domestic industry in India, indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, inventory, profitability, net sales realization, the magnitude and margin of dumping, etc. have been considered in accordance with Annexure II of the Rules.

117. With regards to the submission that 1<sup>st</sup> April 2020 – 31<sup>st</sup> March 2021 (12 months) is not representative due to the effects of Covid-19, the Authority holds to exclude the lockdown period of April 2020 to June 2020 in its injury examination so that the injury, if any, caused to the domestic industry due to lockdown in India is not attributed to the dumped imports from the subject country.

### H.3.1. Volume Effect of dumped imports and impact on Domestic industry

#### a. Assessment of Demand/ Apparent Consumption

118. With regard to the volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India. For the purpose of injury analysis, the Authority has relied on the import data procured from the DGCI&S and DG Systems. Demand or apparent consumption has been determined as the sum of domestic sales of all the domestic producers and the imports from all the countries.

| Particulars                              | Unit    | 2017-18     | 2018-19     | 2019-20     | POI<br>(Excluding<br>Apr 2020 –<br>June 2020) | POI (A)<br>(Excluding<br>Apr 2020 –<br>June 2020) |
|--|---------|-------------|-------------|-------------|---|---|
| Imports from China PR                    | Pieces  | 58,23,754   | 65,86,633   | 86,61,780   | 58,09,954                                     | 77,46,605   |
| Trend                                    | Indexed | 100         | 113         | 149         | 100   | 133   |
| Imports from Other Countries             | Pieces  | 51,31,568   | 56,94,941   | 68,14,572   | 45,86,242                                     | 61,14,989   |
| Trend                                    | Indexed | 100         | 111         | 133         | 89  | 119   |
| Total Imports                            | Pieces  | 1,09,55,322 | 1,22,81,573 | 1,54,76,352 | 1,03,96,196                                   | 1,38,61,594                                       |
| Trend                                    | Indexed | 100         | 112         | 141         | 95  | 127   |
| Domestic Sales of Domestic industry      | Pieces  | ***         | ***         | ***         | ***   | ***   |
| Trend                                    | Indexed | 100         | 120         | 104         | 70  | 94  |
| Domestic Sales of other Indian producers | Pieces  | ***         | ***         | ***         | ***   | ***   |
| Trend                                    | Indexed | 100         | 47          | 79          | 50  | 66  |
| Total Demand/Consumption                 | Pieces  | ***         | ***         | ***         | ***   | ***   |
| Trend                                    | Indexed | 100         | 108         | 127         | 85  | 114   |

119. It is seen that:

- The demand for the subject goods has increased during the injury investigation period except for a small decline during the POI due to Covid-19 pandemic.
- Imports from China PR have increased during the injury investigation period except for a small decline during the POI.
- Imports from other countries have increased during the injury investigation period except for a small decline during the POI.

*b. Total Import volume and share of the imports from China PR*

| Particulars                                 | Unit   | 2017-18     | 2018-19     | 2019-20     | POI<br>(Excluding<br>Apr 2020 –<br>June 2020) | POI (A)<br>(Excluding<br>Apr 2020 –<br>June 2020) |
|---|--------|-------------|-------------|-------------|---|---|
| Imports from China PR                       | Pieces | 58,23,754   | 65,86,633   | 86,61,780   | 58,09,954                                     | 77,46,605   |
|   | Trend  | 100         | 113         | 149         | 100   | 133   |
| Imports from other Countries                | Pieces | 51,31,568   | 56,94,941   | 68,14,572   | 45,86,242                                     | 61,14,989   |
| Total Imports                               | Pieces | 1,09,55,322 | 1,22,81,573 | 1,54,76,352 | 1,03,96,196                                   | 1,38,61,594                                       |
| Total Indian Production                     | Pieces | ***         | ***         | ***         | ***   | ***   |
|   | Trend  | 100         | 102         | 88          | 53  | 71  |
| Total Demand                                | Pieces | ***         | ***         | ***         | ***   | ***   |
| <b>Imports from China PR in relation to</b> |        |             |             |             |   |   |
| Total India Production                      | %      | ***         | ***         | ***         | ***   | ***   |
| Trend                                       | Range  | 90-100      | 100-110     | 160-170     | 180-190                                       | 180-190   |
| Consumption                                 | %      | ***         | ***         | ***         | ***   | ***   |
| Trend                                       | Range  | 30-40       | 30-40       | 40-50       | 40-50   | 40-50   |

120. It is seen that:

- (i) Imports from China PR have increased during the injury investigation period except for a small decline during the POI.
- (ii) Imports of the subject goods from China PR into India have increased in relation to production in India.
- (iii) Imports of the subject goods from China PR have increased in relation to consumption in India.

*c. Share of dumped imports in total imports from China PR*

| Particulars                           | Unit   | POI (A) (Excluding Apr 2020 – June 2020) |
|---------------------------------------|--------|--|
| Total imports from China PR           | Pieces | 77,46,605                                |
| Dumped imports from China PR          | Pieces | ***                                      |
| Un-dumped imports from China PR       | Pieces | ***                                      |
| Total Indian Production               | Pieces | ***                                      |
| Total Demand                          | Pieces | ***                                      |
| <b>Dumped Imports in relation to:</b> |        |  |
| Total imports from China PR           | %      | ***                                      |
|                                       | Range  | 50-60%                                   |
| Total Indian Production               | %      | ***                                      |
|                                       | Range  | 95-105%                                  |
| Total Consumption                     | %      | ***                                      |
|                                       | Range  | 20-30%                                   |

121. It can be seen that:

- (i) Majority of the imports coming into India from China PR during the POI are dumped imports.
- (ii) Dumped imports from China PR are also substantial in relation to Indian production and in relation to total Indian consumption.

### H.3.2. Price effect of the Dumped Imports on the Domestic industry

122. In terms of Annexure II (ii) of the Rules, the Authority is required to consider the effect of the dumped imports on domestic prices in terms of price undercutting, price suppression and price depression, if any.

#### a. Price Undercutting

123. With regard to the effect of dumped imports on prices, the Authority is required to consider whether there has been a significant price undercutting by the dumped imports as compared to the price of the like product in India or whether the effect of such imports is otherwise to depress 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 value of the product from China PR and the average selling price of the domestic industry:

| Particulars                | Unit    | 2017-18  | 2018-19  | 2019-20  | POI (Excluding Apr 2020 – June 2020) |
|----------------------------|---------|----------|----------|----------|--------------------------------------|
| Landed value from China PR | Rs/Pc   | 73       | 69       | 66       | 70                                   |
| Trend                      | Indexed | 100      | 94       | 91       | 96                                   |
| Domestic selling price     | Rs/Pc   | ***      | ***      | ***      | ***                                  |
| Trend                      | Indexed | 100      | 92       | 100      | 97                                   |
| Price Undercutting         | Rs/Pc   | ***      | ***      | ***      | ***                                  |
| Trend                      | Indexed | -100     | -107     | -47      | -93                                  |
| Price Undercutting         | %       | ***      | ***      | ***      | ***                                  |
| Range                      | Indexed | Negative | Negative | Negative | Negative                             |

124. It is seen that price undercutting due to imports from China PR is negative, but the Authority is also of the opinion that for a proper examination, price undercutting should be examined in conjunction with price depression and price suppression and that price undercutting should not be examined in isolation in a situation where the Domestic Industry has been constantly forced to reduce its prices to match with the landed value of imports. If the Domestic Industry does not respond to imports by bringing down its prices, it will lose more customers and the injury would be more severe.

#### b. Price Suppression/depression

125. In order to determine whether the dumped imports are depressing the domestic prices or whether the effect of such imports is to suppress prices to a significant degree and prevent price increases which otherwise would have occurred, the Authority considered the changes in cost and prices and landed value over the injury period.

| Particulars                           | Unit    | 2017-18 | 2018-19 | 2019-20 | POI (Excluding Apr 2020 – June 2020) |
|---------------------------------------|---------|---------|---------|---------|--------------------------------------|
| Cost of Sales (ex-factory)            | Rs/Pc   | ***     | ***     | ***     | ***                                  |
| Trend                                 | Indexed | 100     | 96      | 107     | 117                                  |
| Selling Price                         | Rs/Pc   | ***     | ***     | ***     | ***                                  |
| Trend                                 | Indexed | 100     | 92      | 100     | 97                                   |
| Landed Price of Imports from China PR | Rs/Pc   | 73      | 69      | 66      | 70                                   |
| Trend                                 | Indexed | 100     | 94      | 91      | 96                                   |

126. It is seen that the domestic industry has not been able to increase its selling price despite the increase in cost of sales. While the cost of sales has increased during the injury investigation period, the selling price of the domestic industry has declined during the same period. The landed price of imports from China PR during the POI is below the cost of sales of the domestic industry.

### H.3.3. Impact on economic parameters of the domestic industry

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

#### a. Capacity, Production, Sales & Capacity Utilization

128. The performance of the domestic industry with regard to production, domestic sales, capacity and capacity utilization is as follows:

| Particulars          | Unit    | 2017-18 | 2018-19 | 2019-20 | POI<br>(Excluding<br>Apr 2020<br>– June<br>2020) | POI (A)<br>(Excluding<br>Apr 2020 –<br>June 2020) |
|----------------------|---------|---------|---------|---------|--|---|
| Capacity             | Pcs     | ***     | ***     | ***     | ***  | ***   |
| Trend                | Indexed | 100     | 109     | 109     | 74   | 99  |
| Production – PUC     | Pcs     | ***     | ***     | ***     | ***  | ***   |
| Trend                | Indexed | 100     | 113     | 75      | 65   | 87  |
| Capacity utilization | %       | ***     | ***     | ***     | ***  | ***   |
| Trend                | Indexed | 100     | 113     | 75      | 87   | 87  |
| Domestic sales       | Pcs     | ***     | ***     | ***     | ***  | ***   |
| Trend                | Indexed | 100     | 120     | 104     | 70   | 94  |

129. It can be seen that production and capacity utilisation of the domestic industry declined during the POI (A) as compared to the base year. The domestic sales increased in 2018-19 and have thereafter consistently declined during the injury investigation period.

*b. Profitability*

130. Profits earned by the domestic industry from sale of the subject goods in the domestic market are as follows:

| Particulars                | Unit     | 2017-18 | 2018-19 | 2019-20 | POI<br>(Excluding<br>Apr 2020 –<br>June 2020) | POI (A)<br>(Excluding<br>Apr 2020 –<br>June 2020) |
|----------------------------|----------|---------|---------|---------|---|---|
| Cost of sales (ex-factory) | Rs/Pc    | ***     | ***     | ***     | ***   | ***   |
| Trend                      | Indexed  | 100     | 96      | 107     | 117   | 117   |
| Selling price              | Rs/Pc    | ***     | ***     | ***     | ***   | ***   |
| Trend                      | Indexed  | 100     | 92      | 100     | 97  | 97  |
| Profit/(Loss) per unit     | Rs/Pc    | ***     | ***     | ***     | ***   | ***   |
| Trend                      | Indexed  | (100)   | (500)   | (350)   | (1100)  | (1100)  |
| Profit/(Loss) – Total      | Rs. Lacs | ***     | ***     | ***     | ***   | ***   |
| Trend                      | Indexed  | (100)   | (205)   | (195)   | (158)   | (211)   |

131. It can be seen that domestic industry is unable to increase selling price despite the increase in cost of sales. Domestic industry is incurring significant losses during the injury investigation period.

*c. Cash Profits*

132. Performance of the domestic industry has been examined in respect of cash profits as shown below:



| Particulars | Unit     | 2017-18 | 2018-19 | 2019-20 | POI<br>(Excluding<br>Apr 2020 –<br>June 2020) | POI (A)<br>(Excluding<br>Apr 2020 –<br>June 2020) |
|-------------|----------|---------|---------|---------|---|---|
| Cash Profit | Rs. Lacs | ***     | ***     | ***     | ***   | ***   |
| Trend       | Indexed  | (100)   | (131)   | (102)   | (68)  | (91)  |
| Cash Profit | Rs. /Pc  | ***     | ***     | ***     | ***   | ***   |
| Trend       | Indexed  | (100)   | (109)   | (113)   | (106)   | (106)   |

133. It can be seen that the domestic industry is incurring cash losses during the injury investigation period.

*d. Return on Investment*

134. The Return on Capital Employed of the Petitioner is as follows:

| Particulars | Unit     | 2017-18 | 2018-19 | 2019-20 | POI<br>(Excluding<br>Apr 2020 –<br>June 2020) | POI (A)<br>(Excluding<br>Apr 2020 –<br>June 2020) |
|-------------|----------|---------|---------|---------|---|---|
| PBIT        | Rs. Lacs | ***     | ***     | ***     | ***   | ***   |
| Trend       | Indexed  | (100)   | (182)   | (171)   | (124)   | (166)   |
| PBIT        | Rs. /Pc  | ***     | ***     | ***     | ***   | ***   |
| Trend       | Indexed  | (100)   | (114)   | (143)   | (245)   | (245)   |
| ROCE        | %        | ***     | ***     | ***     | ***   | ***   |
| Trend       | Indexed  | (100)   | (182)   | (201)   | (163)   | (163)   |

135. It can be seen that domestic industry is having negative return on capital employed during the injury investigation period.

*e. Inventories*

136. Inventory with the domestic industry has been examined as below:

| Particulars       | Unit    | 2017-18 | 2018-19 | 2019-20 | POI<br>(Excluding<br>Apr 2020 –<br>June 2020) | POI (A)<br>(Excluding<br>Apr 2020 –<br>June 2020) |
|-------------------|---------|---------|---------|---------|---|---|
| Average inventory | Pcs     | ***     | ***     | ***     | ***   | ***   |
| Trend             | Indexed | 100     | 97      | 82      | 76  | 76  |

137. It can be seen that average inventory of the domestic industry has declined.

*f. Productivity*

138. The number of employees as well as the productivity per employee is as follows:

| Particulars          | Unit    | 2017-18 | 2018-19 | 2019-20 | POI<br>(Excluding<br>Apr 2020 –<br>June 2020) | POI (A)<br>(Excluding<br>Apr 2020 –<br>June 2020) |
|----------------------|---------|---------|---------|---------|---|---|
| Employees            | No.     | ***     | ***     | ***     | ***   | ***   |
| Trend                | Indexed | 100     | 103     | 89      | 98  | 98  |
| Production/ Employee | Pcs     | ***     | ***     | ***     | ***   | ***   |
| Trend                | Indexed | 100     | 110     | 84      | 67  | 67  |
| Production/ day      | Pcs     | ***     | ***     | ***     | ***   | ***   |
| Trend                | Indexed | 100     | 113     | 75      | 65  | 65  |

139. It can be seen that number of employees has remained more or less stable but the productivity of the domestic industry has declined during the investigation period.

*g. Growth*

140. Information related to growth parameters of the domestic industry during the injury period is given below:

| S.No | Particulars           | 2018-19 | 2019-20 | POI (A) (Excluding<br>Apr 2020 – June 2020) |
|------|-----------------------|---------|---------|---|
| 1.   | Production            | 13%     | (34)%   | 16%   |
| 2.   | Domestic Sales        | 20%     | (13)%   | (10)%                                       |
| 3.   | Profit/Loss – Rs Lacs | (105)%  | 5%      | (8)%  |
| 4.   | PBIT - Rs Lacs        | (82)%   | 6%      | 3%  |
| 5.   | Cash Profit - Rs Lacs | (31)%   | 22%     | 11%   |
| 6.   | ROI %                 | (3.93)% | (0.93)% | 1.81%                                       |

141. It can be seen that domestic industry has experienced negative growth in volume parameters. In so far as price parameters are concerned, the domestic industry has seen negative profitability, negative cash profits and negative ROCE during the injury investigation period.

*h. Ability to Raise Fresh Investment*

142. The applicant has submitted that the profitability of the domestic industry has been adversely impacted by dumped imports in the past and considering the significant capital investment being undertaken in the country by other producers, protection against the dumped imports is necessary.

*i. Magnitude of Injury Margin*

143. The Authority has determined the NIP for the domestic industry on the basis of principles laid down in the Anti-Dumping Rules read with Annexure III, as amended. The NIP of

the product under consideration has been determined by adopting the information/data relating to the cost of production provided by the domestic industry and duly certified by the practicing accountant for the period of investigation. The NIP has been compared with the landed price from the subject country for calculating injury margin.

144. For determining the NIP, the best utilization of the raw materials and utilities has been considered over the injury period. Best utilization of production capacity over the injury period has been considered. Extraordinary or non-recurring expenses have been excluded from 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 PUC was allowed as pre-tax profit to arrive at the NIP as prescribed in Annexure III of the Rules and being followed.

145. Based on the landed price and NIP determined as above, the injury margin for producers/exporters as determined by the Authority is provided in the table below:

**INJURY MARGIN TABLE**

| S. No. | Producer/Exporter   | NIP (Rs/Pc) | Landed Value (Rs/Pc) | IM (Rs/Pc) | IM % | Range    |
|--------|---|-------------|----------------------|------------|------|----------|
| 1.     | a. Conant Optics (Jiangsu) Co., Ltd.<br>b. Shanghai Conant Optics Co., Ltd. | ***         | ***                  | ***        | ***  | Negative |
| 2.     | Zhejiang Weixing Optical Co., Ltd.  | ***         | ***                  | ***        | ***  | Negative |
| 3.     | Carl Zeiss Vision (China) Limited   | ***         | ***                  | ***        | ***  | Negative |
| 4.     | Daejeon Daemyung Optical (Hangzhou) Co., Ltd.                               | ***         | ***                  | ***        | ***  | Negative |
| 5.     | All others  | ***         | ***                  | ***        | ***  | 20-30    |

#### **I. CONCLUSION ON INJURY**

146. The Authority notes that the volume of imports from China PR has increased in absolute terms during the injury investigation period with a marginal decline in the POI. The volume of imports in relation to production and consumption in the country has also increased continuously during the injury investigation period. The landed price of imports from China PR during the POI is below the cost of sales of the domestic industry. Domestic industry has not been able to increase its selling price despite the increase in cost of sales. The price pressure exerted by the subject imports has affected the profitability, ROCE and other economic parameters of the domestic industry indicating material injury. The domestic industry is suffering significant financial losses during the injury investigation period and its losses have also increased during the injury investigation period. Therefore, the Authority concludes that the domestic industry has suffered material injury.

**J. CAUSAL LINK AND NON-ATTRIBUTION ANALYSIS**

147. As per the AD Rules, the Authority, inter alia, is required to examine any known factors other than dumped imports which are injuring or are likely to cause injury to the domestic industry, so that the injury caused by these other factors may not be attributed to the dumped imports. While the present investigation is an anti-dumping investigation, causal link has to be examined. The Authority has examined whether other known listed factors have caused or are likely to cause injury to the domestic industry. It was examined whether other factors listed under the AD Rules could have contributed or are likely to contribute to the injury suffered by the domestic industry.

148. The listed known factors have not caused injury, as is seen from the following:

*a. Volume and Price of Imports from Third Countries*

149. Imports from third countries are at higher prices and have remained lower than imports from China PR.

*b. Contraction in Demand*

150. The demand for subject goods has increased during the injury investigation period except for a small decline during the POI due to Covid-19 pandemic.

*c. Change in Pattern of Consumption*

151. The pattern of consumption with regard to the product under consideration has not undergone any change.

*d. Trade restrictive practices*

152. There is no trade restrictive practice.

*e. Development of Technology*

153. Technology for production of the product concerned has not undergone any change.

*f. Export performance*

154. Injury information examined by the Authority is for domestic operations only.

**K. CONCLUSION ON CAUSAL LINK**

155. The Authority notes that the domestic industry has not suffered injury on account of other known factors listed above.

156. The Authority, thus, concludes that the domestic industry has suffered material injury on account of the dumped imports of subject goods from the subject country.

**L. POST DISCLOSURE STATEMENT SUBMISSIONS BY INTERESTED PARTIES**

**J.1. Post disclosure statement submissions by the other interested parties**

157. Following are the post disclosure statement submissions made by the other interested parties:

- i. See World Optical Co., Ltd.'s 2020 annual report does not show Danyang ILT Optics Co., Ltd. as a related party. See World Optical Co., Ltd.'s 2017 annual report shows Danyang ILT Optics Co., Ltd. as a related party.
- ii. Essilor Group had withdrawn its investment and shareholding from Danyang ILT in 2018, thereby ending its relationship with Danyang ILT. This claim is supported by information available in public domain, which was also provided during desk verification of questionnaire responses.
- iii. Essilor Group does not have access to Danyang ILT's annual reports since it is an unrelated party.
- iv. Shanghai Essilor Optical Co., Ltd. had extended loans to Danyang ILT prior to 2018 when Danyang ILT was a related party, and no fresh loans have been extended since then. Working capital loans have also been extended to other unrelated parties.
- v. Shanghai Essilor Optical Co., Ltd. had purchased the subject goods from Danyang ILT and then resold to Essilor Amera Pte. Limited ("Amera") at a gross mark-up/profit. Thereafter, Amera had sold the subject goods to India at a gross mark-up/profit. This means that Shanghai Essilor Optical Co., Ltd. had sold the subject goods to Amera at higher prices than the prices at which it had purchased the same goods from Danyang ILT. Amera had further resold the same subject goods to India at even higher prices.
- vi. Shanghai Essilor Optical Co., Ltd. and Amera combined have not suffered loss on exports of the subject goods that were produced by Danyang ILT. Detailed explanation in this regard was provided in Desk Verification response.
- vii. Allocation of expenses on the subject goods gives an impression of loss by Shanghai Essilor Optical Co., Ltd. on the aforesaid resales but if it is examined holistically, Shanghai Essilor Optical Co., Ltd. is not a loss-making enterprise.
- viii. Shanghai Essilor Optical Co., Ltd. had also purchased the subject goods from its related parties namely See World Optical Co., Ltd. and Chemilens (Jiaxing) Co., Ltd and sold the same in the domestic market. The Authority's observation that Danyang

ILT is the sole supplier of the subject goods to Shanghai Essilor Optical Co., Ltd. is factually incorrect.

- ix. Exports from China PR where Danyang ILT is the producer accounts for low % of Essilor Group's purchases of the subject goods from China PR.
- x. Danyang ILT cannot be regarded as related to Essilor Group under the definition of the term 'related' defined vide. Trade Notice No. 09/2018 dated 10 May 2018. 'Relation' between two parties cannot be examined in a casual manner and it should fit within the four corners of the definition of related.
- xi. The Hon'ble Supreme Court in Commr. of Cus (Imports), Mumbai vs. Bayer Corp. Science Ltd., 2015 (324) ELT 17 (SC) has held that mere sole distributorship is not the conclusive consideration to deem two parties as related.
- xii. Jiangsu Wanxin manufactures semi-finished ophthalmic lenses and finished ophthalmic Lenses. Jiangsu Wanxin Optical Co., Ltd. had not exported the subject goods to India during the POI. Jiangsu Wanxin had only exported finished ophthalmic lenses to India during the POI, which is non-PUC.
- xiii. Jiangsu Creasky manufactures both finished ophthalmic lenses and semi-finished ophthalmic lenses. Jiangsu Creasky Optical Co., Ltd. had not exported the subject goods to India during the POI.
- xiv. Related parties that had not exported the subject goods to India during the POI and are not required to file the exporter questionnaire response in terms of Trade Notice No. 6/2021 dated 29 July 2021.
- xv. Observation of the Authority in the disclosure statement is that Essilor Group has not stated names of Jiangsu Wanxin, Jiangsu Governor and Jiangsu Creasky as related parties in Exhibit A-6 is incorrect. In terms of Paragraph 8(i) of the Trade Notice No. 6/2021 dated 29 July 2021, in case of non-market economy countries, only those related producers involved in the production of the product under consideration whose product has been exported to India are required to furnish information in Part I, II and III. Question 6 falls under Section A of Part I of the exporter questionnaire format. Essilor Group has answered Question 6 in respect of those related producers whose goods were exported to India during the period of investigation. Also, as none of the three companies have exported the subject goods to India, it has not impacted the present investigation and Essilor Group's cooperation in any manner.
- xvi. Response of Essilor Group to Section A Question 7 is in line with the Trade Notice No. 6/2021 dated 29 July 2021. Question 7 requires a producer/exporter to place on record copies of such 'agreements' wherein any financial or contractual links and joint ventures with any other company have been entered into. Essilor Group has responded correctly in the exporter questionnaire responses that there are no such contractual or financial links with any other company as described in the question.

- xvii. Since 2018, Danyang ILT is not a related party to Essilor Group. Essilor Group has also not extended any fresh loans to Danyang ILT since the time it became unrelated.
- xviii. Essilor Group humbly requests the Authority to determine individual dumping margin and injury margin for the group. Essilor Group has answered all the concerns and issues raised by the Authority in the disclosure statement.
- xix. The Authority has observed that information on actual export price and landed value has been considered for cooperating producers/exporters, namely, (i) Daejeon Daemyung Optical (Hangzhou) Co., Ltd. (ii) Conant Optics (Jiangsu) Co., Ltd. and Shanghai Conant Optics Co., Ltd. (iii) Zhejiang Weixing Optical Co., Ltd. & (iv) Carl Zeiss Vision (China) Ltd. The Authority is requested to confirm the same in its final findings.
- xx. The Authority has noted negative dumping and injury margins for cooperating producers/exporters in the subject investigation. The Authority is requested to confirm the same in its final findings.
- xxi. GKB Ophthalmics Limited constitutes eligible domestic industry in terms of Rule 2(b) of the AD Rules. The Authority has rightly determined that GKB Ophthalmics Limited is not related to GKB Vision Private Limited in terms of explanation to Rule 2(b) of the AD Rules. Imports of the subject goods by GKB Vision Private Limited in order to meet consumer demand during a period of disrupted production cannot prejudice the standing of the applicant as the domestic industry.
- xxii. The relationship between GKB Ophthalmics Limited and Essilor Group, if any, needs to be ascertained in view of the explanation given under Rule 2(b) of the AD Rules. None of the three conditions prescribed under explanation to Rule 2(b) for considering domestic producer and exporter/importer as related parties are satisfied in case of GKB Ophthalmics Limited and Essilor Group. Essilor Group does not directly or indirectly control GKB Ophthalmics Limited or vice versa. Both of them are also not controlled by any third entity.
- xxiii. GKB Ophthalmics Limited and Essilor group together do not control GKB Vision Pvt. Ltd in terms of clause (c) of explanation to Rule 2(b) of AD Rules. The Authority has rightly noted that Essilor group is itself holding majority shares in GKB Vision Private Limited and is having operational and legal control over GKB Vision Private Limited all by itself.
- xxiv. Even if GKB Ophthalmics Limited and Essilor Group together controlled GKB Vision Pvt. Ltd., it is still relevant for the Authority to examine whether behaviour of GKB Ophthalmics Limited is influenced by such a relationship to the extent that it is causing GKB Ophthalmics Limited to behave differently with GKB Vision Pvt. Ltd. as compared to non-related producers.

- xxv. GKB Ophthalmics Limited is (i) primarily a domestic producer of the subject goods (ii) has not shifted its focus to imports of the subject goods or imports of the subject goods from Essilor Group (iii) is not specially seeking exclusion of product types exported by Essilor Group (iv) is competing with Essilor Group Ltd. for the Indian market and (v) is seeking imposition of anti-dumping duty on imports despite strong opposition by Essilor Group establishes that behaviour of GKB Ophthalmics Limited is not influenced by alleged relationship with Essilor Group.
- xxvi. The Authority has permitted the domestic industry to submit revised information post the oral hearing in the subject investigation. This indicates that initiation of subject investigation was not based on a fully documented and substantiated petition. Thus, the initiation was itself bad in law *ab initio* and cannot be maintained.
- xxvii. The Authority does not have the power under any provision of the AD Rules to permit the domestic industry to file a revised petition after the stage of oral hearing. This is in violation of Rule 5(1) and Rule 5(3) of the AD Rules.
- xxviii. Even after the opportunity to file a revised petition, the Applicant has failed to file appropriate application in the form and manner prescribed by Trade Notice 5 of 2021 dated 29<sup>th</sup> July 2021.
- xxix. The Authority has revised the scope of the PUC at the stage of the disclosure statement.
- xxx. The Authority has rightly excluded subject goods of refractive indexes higher than 1.60 from the scope of the PUC. The applicant has failed to provide any positive evidence to substantiate its claim that it has the capacity to manufacture such lenses. Any type of the PUC which the domestic industry does not manufacture and supply in the domestic market should be excluded from the scope of the PUC. However, the PUC is still defined in a very simplistic manner without identifying and laying down any technical features or characteristics. Definition of the PUC does not explain what constitutes “semi-finished” lens.
- xxxi. The methodology of segregating the data for identifying PUC and non-PUC has not been declared by the Authority. The Authority has also not provided transaction-wise import data to allow verification of the same.
- xxxii. The applicant is related to one of the major importers of the subject goods from the subject country and does not have the standing to file this petition initiating the subject investigation in terms of Rule 2(b) of AD Rules and explanation thereunder. M/s GKB Vision Private Limited and Essilor Group are related to the applicant through common directorship and common control. They have been importing the subject goods from the subject country in large volumes during the injury investigation period and the POI. Mr Krishna Gopal Gupta, Chairman & Managing Director of GKB Ophthalmics Ltd. is also a Director in GKB Vision Private Limited.



- xxxiii. M/s GKB Vision Private Limited has imported the subject goods from the subject country during the POI as a result of business exigency forced by COVID-19 lockdown. AD Rules does not entitle the Designated Authority to provide leeway to the applicant to be considered as domestic industry despite acknowledged relationship with known importers of the dumped articles.
- xxxiv. The applicant is a 100% Export Oriented Unit (“EOU”). Para 6.08 of the Foreign Trade Policy (2015-2020) mandates that the entire production of EOU units shall be exported. Sales to domestic tariff area (‘DTA’) is allowed only when it is authorized by the Development Commissioner who determines the extent of the DTA sales allowed and issues authorization in terms of value.
- xxxv. Since the applicant is a 100% EOU, volume and price injury analysis needs to be carried out with regard to its “domestic sales entitlements” certified by jurisdictional Development Commissioner. In the absence of the same, injury analysis conducted by the Authority in the subject investigation is erroneous.
- xxxvi. As per Paragraph (v) of Annexure II of the AD Rules, injury caused due to factors other than dumped imports must not be attributed to dumped imports. It is known that during the lockdown period of April 2020 to June 2020, all non-essential economic activities in India were adversely impacted. Adverse impact to the domestic industry during this period cannot be attributed to dumped imports.
- xxxvii. The Authority has determined negative injury margin for all four cooperating producers/exporters from China PR. Most of the imports from the subject country are accounted for by the cooperating producers/exporters in the subject investigation.
- xxxviii. The applicant incurred financial burden due to huge investments in setting up new plants and modernizing existing plants for up-scaling its production. The Authority has not examined injury that may have been cause on account of the same.
- xxxix. The user industry has raised serious quality concerns for products manufactured by the applicant. The quality is of utmost importance for end consumers. It is the key criteria for price differentiation.
- xl. The increase in imports from the subject country can be attributed to significant demand supply gap. The installed capacity of the applicant is not sufficient to cater to demand of the PUC in India.
- xli. Imposition of duty would have an adverse impact on the end users. This would adversely affect the consumption of eyewear glasses which is a necessary item for vision correction.
- xlii. The average inventory with the applicant shows a declining trend which is an indicator of good economic health of the domestic industry.

- xliii. In spite of adverse impact of Covid-19 pandemic, the employment of domestic industry was not adversely impacted. Salaries and wages too observed a positive trend overall. Productivity per day has remained almost the same in the POI as in the base year.
- xliv. Imports into India have declined in the POI as compared to 2019-20. The increase in imports in the POI as compared to the base year or overall increase in imports during the injury investigation period is in response to the increase in demand of the subject goods. This increase in imports during the 4 years period cannot be termed as significant increase in imports of the subject goods into India.

## **J.2. Post disclosure statement submissions made by the domestic industry**

158. Following are in brief the post disclosure statement submissions made by the domestic industry:

- i. The Authority should reconsider its proposal to exclude semi-finished ophthalmic lenses with refractive index higher than 1.60 from the scope of the PUC.
- ii. It is scientifically proven that all refractive indexes of 1.498 and 1.74 can be produced chemically and can be made from different materials such as glass, CR39, Trivex, 1.53, 1.56 Blue Cut, Polycarbonate, 1.60, 1.67 etc. All lenses serve the end objective of providing power to spectacles for better vision to the end customer. The material of lens is substitutable but not the power.
- iii. Semi-finished ophthalmic lenses produced by the domestic industry is substitutable to the extent described above from which lenses of varied power can be made. Refractive Indexes of 1.50 and 1.56, manufactured by the domestic industry is substitutable by other refractive indexes without impacting the user's vision. Basic casting process for all refractive indexes remains the same and there is only a change in monomers and additives based on a particular refractive index.
- iv. The domestic industry possesses adequate infrastructural and technical know-how to produce the PUC with Refractive Indexes 1.60, 1.67 and 1.74. The domestic industry has an entire factory set up enabled for producing lenses with aforesaid refractive indexes. The domestic industry has the requisite capabilities to manufacture lenses with Refractive Indexes higher than 1.60 as well.
- v. Due to incessant dumping from China PR, the domestic industry is forced to only sell ophthalmic lenses with Refractive Indexes up to 1.56 at a discounted price which is lower than the cost of production. Production of lenses with Refractive Index higher than 1.56 cannot be commenced due to losses incurred by the domestic industry on account of dumped goods from China PR. The domestic industry will be able to produce lenses with Refractive Index higher than 1.56 once remedy has been provided against dumping of the subject goods from China PR.

- vi. The domestic industry is currently manufacturing entry stage products in the current segment of lenses and is willing to expand to include the remaining products not forming part of the PUC provided it gets support in the form of trade remedies to eliminate injury caused to the domestic industry due to unfair trade practices.
- vii. The Authority has incorrectly computed PCN-wise NIP for the domestic industry. The Authority has arbitrarily determined NIP without considering the information provided by the domestic industry. Non-furnishing of basis for computation of NIP is violative of principles of natural justice.
- viii. The Authority has arrived at its conclusion in its disclosure statement and finalized PCN wise NIP without providing essential information to the domestic industry in contravention to Rule 16 of the AD Rules.
- ix. Before issuing its final findings, the Authority should share the detailed workings capturing reasons for difference between the computation of PCN-wise NIP submitted by the domestic industry and the PCN wise NIP determined by the Authority and allow opportunity to the domestic industry to provide its reasoned comments on the same.

**J.3. Examination by Authority**

- 159. The Authority has examined the post disclosure statement submissions of the domestic industry and the other interested parties. The Authority notes that most of the submissions are reiterations which have already been examined suitably and addressed adequately in the relevant paragraphs of these final findings. The issues raised for the first time in the post disclosure statement submissions by the domestic industry and other interested parties have been examined by the Authority to the extent considered relevant.
- 160. With regard to the claim that Refractive Index higher than 1.60 should be included within the scope of the PUC, the Authority notes that domestic industry has not produced semi-finished ophthalmic lens with Refractive Index 1.67, 1.70 and 1.74. Semi-finished ophthalmic lenses of Refractive Index of 1.56 produced by the domestic industry cannot technically and commercially substitute semi-finished ophthalmic lenses with Refractive Indexes 1.67, 1.70 and 1.74. They are significantly more expensive when compared to lenses with Refractive Index 1.56 and occupy a low share in the total imports of semi-finished ophthalmic lenses. The Authority has followed its consistent practice of excluding those imported products that are not technically and commercially substitutable with the product produced by the domestic industry.
- 161. With regard to the claim that the Authority has incorrectly computed PCN-wise NIP for the domestic industry, the Authority notes that it has determined NIP as per the procedure prescribed in Annexure-III of the AD Rules and in accordance with its consistent practice.

162. With regard to the claim that the Authority should share the detailed workings capturing reasons for difference between the computation of PCN-wise NIP submitted by the domestic industry and the PCN wise NIP determined by the Authority, the Authority notes that it has disclosed NIP workings to the domestic industry as per consistent practice followed by the Authority.
163. With regard to various submissions by Essilor group concerning the Authority's decision not to determine individual dumping margin for Essilor Group, the Authority notes that it has provided detailed explanation in these final findings in its examination in Section G concerning 'Determination of normal value, export price and dumping margin' for Essilor Group. Examination of the Authority in response to specific issues raised by Essilor Group is additionally noted below:
- (i) With regard to the submission of Essilor Group that See World Optical Co., Ltd.'s 2020 annual report does not show Danyang ILT Optics Co., Ltd. as a related party, the Authority has noted the submission and has not relied on See World Optical Co., Ltd.'s 2020 annual report in its examination relating to determination of dumping margin for Essilor Group.
  - (ii) With regard to the submission of Essilor Group that because of sale of shareholding by Essilor Group in Danyang ILT on 14<sup>th</sup> November 2018 in favour of Danyang Shuoshi Optical Glasses Co., Ltd., there is no relationship of Essilor Group with Danyang ILT, the Authority notes that credit report published by National Enterprise Credit Information Publicity System also notes that the shares sold to Danyang Shuoshi Optical Glasses Co., Ltd. on 14<sup>th</sup> November 2018 were pledged back to Shanghai Essilor Optical Co., Ltd. (company within the Essilor Group) by Danyang Shuoshi Optical Glasses Co., Ltd. on 16<sup>th</sup> November 2018. This crucial information relating to pledge of shares of Danyang ILT Optics Co., Ltd. by Danyang Shuoshi Optical Glasses Co., Ltd. to Shanghai Essilor Optical Co., Ltd. has not been disclosed to the Authority by the Essilor Group in their questionnaire response, in response to the two deficiency letters issued by the Authority and in the comments on the disclosure statement. In fact, the report published by National Enterprise Credit Information Publicity System, which was submitted by Essilor Group as Exhibit 2 to its comments on the disclosure statement omits the relevant pages, which specifically contains the information regarding the pledging of shares of Danyang ILT Optics Co., Ltd. by Danyang Shuoshi Optical Glasses Co., Ltd. to Essilor Group on 16<sup>th</sup> November 2018. Therefore, Essilor Group has continued to impede the investigation by providing partial and incomplete information even after the issuance of the disclosure statement.
  - (iii) In response to the clarification sought by the Authority regarding the pledging of shares, the Essilor Group has responded by providing Equity pledge Agreement and by explaining terms and conditions of the Agreement. In this

regard, the Authority notes that the information relating to pledge of shares of Danyang ILT Optics Co., Ltd. by Danyang Shuoshi Optical Glasses Co., Ltd. to Essilor group had not been disclosed to the Authority till 27 September 2022 by the Essilor Group. As per facts available, transfer of shares by Essilor International in Danyang ILT Optics Co. Ltd. has not led to cessation of control of Essilor Group in Danyang ILT Optics Co. Ltd. as claimed by Essilor Group because Shanghai Essilor Optical Co. Ltd. still controls Danyang ILT Optics Co. Ltd. indirectly.

- (iv) With regard to the relationship between of Danyang ILT Optics Co., Ltd and Essilor Group, the Authority also notes that in the absence of annual reports of Danyang ILT Optics Co., Ltd., the Authority is unable to examine further information about the terms and conditions attached to the pledging of shares. This information is necessary to understand the complete nature of relationship between Danyang ILT Optics Co., Ltd., and Essilor Group.
- (v) Rule 6(8) of the AD Rules provides that 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. In absence of complete, correct and timely disclosure of necessary information by Essilor Group, the Authority concludes that Essilor Group has refused access to or has not provided necessary information within a reasonable period and has significantly impeded the investigation. Accordingly, information regarding sales of shares by Essilor Group to Danyang Shuoshi Optical Glasses Co., Ltd. on 14<sup>th</sup> November 2018 cannot be considered as complete and conclusive information to determine that Danyang ILT Optics Co., Ltd., and Essilor Group are unrelated entities.
- (vi) With regard to the claim of Essilor Group that they had understood from the requirement prescribed in Trade Notice 06/2021 dated 29 July 2021 that names of only those producers who are involved in export of the subject goods to India should be disclosed cannot be relied upon because Essilor Group has omitted the names of only three entities namely Jiangsu Wanxin Optical Co., Ltd., Jiangsu Creaksy Optical Co., Ltd. and Jiangsu Governor Dragon Optical Co., Ltd. in Exhibit A-6 while providing names of other related entities of Essilor Group. In fact, Trade Notice 06/2021 dated 29 July 2021 provides for filing of questionnaire response by only these related entities of producers/exporters in case of China PR who have not claimed market economy status. However, this trade notice does not govern the requirements about disclosure of names of related entities of participating producer/exporter in the questionnaire response. In all the other anti-dumping investigations being conducted by the Authority, interested parties are providing details of all the related entities in response to

Question 6 of Part 1 of Section A irrespective of the fact whether the related entity has exported the subject goods to India or not.

- (vii) With regard to the claim that response of Essilor Group to Section A Question 7 is correct and in line with the Trade Notice 06/2021 dated 29 July 2021, the Authority notes that there is no relation between Section A Question 7 and Trade Notice 06/2021 dated 29 July 2021. Also, the information in Section A Question 7 is not factually correct because working capital loans were extended by Shanghai Essilor Optical Co., Ltd. to Danyang ILT Optics Co., Ltd., which remained outstanding during the POI.
- (viii) Essilor Group has noted that response of the Shanghai Essilor Optics Co., Ltd to Question 7 Section A about absence of financial and contractual link of Essilor Group with any other company is correct because since the time it became unrelated on 14 November 2018, Essilor Group has not extended any fresh loans to Danyang ILT. The Authority notes that this claim of Essilor Group cannot be relied upon because even if these loans were extended prior to 14<sup>th</sup> November 2018, it was necessary to disclose this financial link in the form of working capital loan that remained outstanding during the period of investigation. Also, after the selling of shares of Danyang ILT Optics Co., Ltd. to Danyang Shuoshi Optical Glasses Co., Ltd. on 14 November 2018, shares of Danyang ILT Optics Co., Ltd. held by Danyang Shuoshi Optical Glasses Co., Ltd. were pledged to Shanghai Essilor Optics Co., Ltd on 16<sup>th</sup> November 2018. This resulted in a financial and contractual link between Essilor Group and Danyang ILT Optics Co., Ltd. after 14<sup>th</sup> November 2018.
- (ix) With regard to the submission that Shanghai Essilor Optical Co., Ltd. had purchased the subject goods from Danyang ILT Optics Co., Ltd. and then resold to Essilor Amera Pte. Limited at a gross mark-up/profit, the Authority notes that this submission of Essilor Group cannot be accepted because they are looking at gross profits without considering the SGA expenses incurred by the companies. It is the consistent practice of the Authority to consider net profit after taking into account SGA expenses incurred by the companies. Also, SGA expenses have been allocated on the basis of sales turnover as per the consistent practice of the Authority while determining profitability of Essilor Amera Pte. Limited. The Authority reiterates that during the POI, Shanghai Essilor Optical Co., Ltd. has purchased \*\*\*% of the subject goods exported to India from Danyang ILT Optics Co., Ltd. and sold the same to its related entity namely Essilor Amera Pte. Limited at a loss. The same goods were then resold/exported by Essilor Amera Pte. Limited to India at a profit. Shanghai Essilor Optical Co., Ltd. and Essilor Amera Pte. Limited taken together have exported the subject goods to India at a loss.

- (x) With regard to the submission that Shanghai Essilor Optical Co., Ltd. has also purchased goods from See World Optical Co., Ltd. and Chemilens (Jiaxing) Co., Ltd. and sold the same in the domestic market and therefore Danyang ILT Optics Co., Ltd. is not the sole supplier of Shanghai Essilor Optical Co., Ltd, the Authority notes as follows:

- Essilor Group has itself noted that goods purchased from See World Optical Co., Ltd. and Chemilens (Jiaxing) Co., Ltd. are sold in the domestic market whereas the Authority has observed that Danyang ILT Optical Co., Ltd. is the sole supplier of Shanghai Essilor Optical Co., Ltd. for the subject goods exported by Shanghai Essilor Optical Co., Ltd. to India and to the third countries.
- Even the fact that Shanghai Essilor Optical Co., Ltd. has purchased goods from See World Optical Co., Ltd. and Chemilens (Jiaxing) Co., Ltd. and sold the same in the domestic market are not borne out of facts on record because in the questionnaire response submitted by Shanghai Essilor Optical Co., Ltd., they have not reported any domestic sales of the subject goods in Appendix 1 and Appendix 4A of the questionnaire.

164. With regard to the submission that the application filed by the domestic industry before initiation of investigation was deficient, the Authority notes that the domestic industry is a MSME unit and was not completely familiar with the procedure and data requirements of the petition. All interested parties were given the opportunity to respond to the revised petition filed by the domestic industry. The Authority has examined the revised petition and the Authority notes that information provided in the revised petition has remedied the deficiencies.
165. With regard to the claim that the applicant is a 100% EOU, the Authority notes that it has only considered domestic sales of the domestic industry for determination of standing of the domestic industry. Further, the Authority has also considered only domestic performance of the domestic industry for its injury analysis.
166. With regard to the submission that injury caused due to lockdown period of April 2020 to June 2020 cannot be attributed to dumped imports, the Authority notes that the period of April 2020 to June 2020 has already been excluded from the POI for injury analysis. Therefore, adverse impact caused due to other known factor has not been attributed to dumped imports from China PR.
167. With regard to the submission that most of the imports from the subject country are from cooperating producers/exporters in the subject investigation, the Authority notes that the majority of the imports into India of the subject goods are from other non-cooperating producers/exporters. The imports from non-cooperating producers/exporters are substantial in relation to total Indian production and total Indian consumption.

168. With regard to the submission that increase in imports is due to demand-supply gap, the Authority notes that existence of demand-supply gap cannot justify imports of goods into India at dumped and injurious prices.
169. With regard to the claim that GKB Ophthalmics Ltd. is related to GKB Vision Pvt. Ltd and Essilor Group, the Authority notes that under Rule 2(b) of the Anti-dumping Rules, the Authority has the discretion to treat a domestic producer as eligible domestic industry even when the domestic producer is related to an importer of alleged dumped article. The Authority holds that imports of subject goods made by GKB Vision Private Limited during April to June 2020 lockdown period under extra ordinary circumstances would not disentitle GKB Ophthalmics Ltd. to constitute domestic industry in terms of Rule 2(b) of the AD Rules. Also, Essilor Group is not related to GKB Ophthalmics Limited because it is not controlling GKB Ophthalmics Limited either directly or indirectly through GKB Vision Private Limited.

**M. INDIAN INDUSTRY'S INTEREST AND PUBLIC INTEREST**

170. The Authority notes that the purpose behind the imposition of anti-dumping duty or any other duty as a consequence of trade remedial investigations, is to establish a level playing field for the domestic industry which has been suffering injury as a consequence of unfair imports making way into the territory of India. The Anti-dumping Rules, 1995 ensure that amount of duty levied is restricted to what is necessary to redress the injury to the domestic industry. The application of lesser duty rule makes it certain that the domestic industry does not receive any undue advantage.
171. The Authority considered whether imposition of anti-dumping duty 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.
172. It is noted that after initiation of investigation, views from all interested parties were invited including importers, users and consumers. The Authority also issued questionnaire for the users/user association to provide relevant information with regard to present investigation including any possible effects of anti-dumping duty on their operations. It is noticed that none of the users / user association have made any submissions or provided evidence that can be considered as relevant.
173. The Authority has also noted that the effect of anti-dumping duty measures on public interest is commonly studied from the perspective of the importers, users and consumers.
- i. It is noted that the imposition of anti-dumping duty on imports of the subject goods would be in the interest of domestic producers of the subject goods in India. The



measures would prevent further injury to the domestic industry and give time to them to compete against the exporters from the subject country.

- ii. The Authority has also analysed the effect of imposition of anti-dumping duty from the consumer's point of view and observed that it would be in the interest of domestic consumers of subject goods to have reliable Indian domestic producers capable of competing with foreign producers. This is possible when the domestic producers are able to recover from the injury suffered due to the imports. If the current situation is allowed to continue, the Indian domestic producers would face further injury giving foreign producers increased leverage as against domestic producers. Further, if the domestic industry is allowed to suffer, it will eventually be wiped out and the consumers will be left at the mercy of the imported goods.
174. The Authority has already narrowed the scope of the PUC and excluded subject goods having Refractive Index more than 1.60 as the domestic industry was not manufacturing the same.
175. The Authority notes that no anti-dumping duty is recommended on 5 cooperating producers/exporters from China PR and therefore importers/users would be able to import the subject goods from these producers/exporters without payment of anti-dumping duty.
176. There are imports of the subject goods from third countries as well. These imports would continue to come into India without payment of anti-dumping duty and accordingly users will continue to have wide choice for procurement of the subject goods.
177. With regard to the impact of imposition of anti-dumping duty on public at large, the Authority notes that the PUC constitutes only 10-11% of cost of the spectacles. If the Authority imposes 10-20% anti-dumping duty on the subject goods, the price of the final product i.e., spectacles may increase only by 1-2% and the end consumer of spectacles will not face any significant increase in prices due to imposition of anti-dumping duty.

#### **N. CONCLUSION**

178. After examining the issues raised and submissions made by the interested parties and facts made available before the Authority as recorded in the present findings, the Authority concludes that:
- i. The applicant is an eligible domestic industry within the meaning of Rule 2(b) of the AD Rules, 1995. The application satisfies the criteria of standing in terms of Rule 5(3) of the AD Rules, 1995.
  - ii. The product produced by the domestic industry is like article to the product under consideration imported from the subject country.
  - iii. Considering the normal value and export price for the subject goods, there is positive and significant dumping margin for the subject goods from the subject country except for exports made by 5 cooperating producers/exporters.
  - iv. Total imports of the subject goods from China PR have increased during the injury investigation period except for a small decline during the POI.

- v. Imports of the subject goods from China PR into India have increased in relation to production and consumption in India.
- vi. Majority of the imports from China PR are dumped imports. Dumped imports are significant in relation to Indian production and Indian consumption.
- vii. The domestic sales increased in 2018-19 and have thereafter consistently declined during the injury investigation period.
- viii. The import prices are suppressing and depressing the prices of the domestic industry. While the cost of sales has increased during the injury investigation period, the selling price of the domestic industry has declined during the same period. The landed price of imports from China PR during the POI is below the cost of sales of the domestic industry.
- ix. The Domestic industry is unable to increase selling price despite the increase in cost of sales. The domestic industry is incurring significant losses during the injury investigation period.
- x. Cash profits, profit before interest & tax and return on investment were negative during the injury investigation period.
- xi. Productivity of the domestic industry has declined during the investigation period.
- xii. In view of the foregoing, the Authority concludes that the domestic industry has suffered material injury as a result of dumped imports from China PR.
- xiii. There are no other factors which could have caused injury to the domestic industry.
- xiv. It would also be in the interest of domestic consumers of the subject goods to have reliable Indian domestic producers capable of competing with foreign producers. This is possible when the domestic producers are able to recover from the injury suffered due to the imports.
- xv. The analysis of the impact of imposition of anti-dumping duties on public at large shows that the product under consideration is a very low value product and, therefore, the end consumer of the subject goods will not face any significant increase in prices if the anti-dumping duty is imposed.

## **O. RECOMMENDATIONS**

179. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the domestic industry, Embassy of the subject country, exporters, importers and the other interested parties to provide positive information on the aspect of dumping, injury and causal link. Having initiated and conducted the investigation into dumping, injury and causal link in terms of the provisions laid down under the Rules, the Authority is of the view that imposition of antidumping duty is required to offset dumping and the consequent injury. Therefore, the Authority considers it necessary to recommend imposition of the definitive antidumping duty on the imports of the subject goods from the subject country in the form and manner described hereunder for a period of 5 years.
180. In terms of the provisions contained in Rule 4(d) & Rule 17(1)(b) of the Rules, the Authority recommends imposition of the anti-dumping duty equal to the lesser of margin of dumping and the margin of injury so as to remove the injury to the domestic industry. Accordingly, definitive anti-dumping duty equal to the amount mentioned in Column 7

of the Duty Table below is recommended to be imposed for five (5) years from the date of the Notification to be issued by the Central Government, on imports of the product under consideration described at Column 3 of the Duty Table, originating in or exported from China PR.

**DUTY TABLE**

| S. No | Heading / Sub-Heading | Description of Goods              | Country of origin | Country of Export              | Producer                                      | Duty Amount | Unit  | Currency |
|-------|-----------------------|-----------------------------------|-------------------|--------------------------------|---|-------------|-------|----------|
| (1)   | (2)                   | (3)                               | (4)               | (5)                            | (6)   | (7)         | (8)   | (9)      |
| 1.    | 9001 5000*            | Semi-Finished Ophthalmic Lenses** | China PR          | Any country including China PR | Conant Optics (Jiangsu) Co., Ltd.             | Nil         | Piece | USD      |
| 2.    | -do-                  | -do-                              | China PR          | Any country including China PR | Shanghai Conant Optics Co., Ltd.              | Nil         | Piece | USD      |
| 3.    | -do-                  | -do-                              | China PR          | Any country including China PR | Zhejiang Weixing Optical Co., Ltd.            | Nil         | Piece | USD      |
| 4.    | -do-                  | -do-                              | China PR          | Any country including China PR | Carl Zeiss Vision (China) Limited             | Nil         | Piece | USD      |
| 5.    | -do-                  | -do-                              | China PR          | Any country including China PR | Daejeon Daemyung Optical (Hangzhou) Co., Ltd. | Nil         | Piece | USD      |
| 6.    | -do-                  | -do-                              | China PR          | Any country including China PR | Any producer other than those                 | 0.15        | Piece | USD      |

| S. No | Heading / Sub-Heading | Description of Goods | Country of origin               | Country of Export | Producer                            | Duty Amount | Unit  | Currency |
|-------|-----------------------|----------------------|---------------------------------|-------------------|-------------------------------------|-------------|-------|----------|
| (1)   | (2)                   | (3)                  | (4)                             | (5)               | (6)                                 | (7)         | (8)   | (9)      |
|       |                       |                      |                                 |                   | mentioned at S. Nos. 1, 2, 3, 4 & 5 |             |       |          |
| 7.    | -do-                  | -do-                 | Any country other than China PR | China PR          | Any                                 | 0.15        | Piece | USD      |

*\*Customs classification is only indicative, and the determination of the duty shall be made as per the description of PUC.*

*\*\* The product under consideration is semi-finished ophthalmic lenses made up of plastic. Semi-finished ophthalmic lenses are semi-finished blanks which have the front surface of the lens made of ophthalmic quality and the back surface unfinished. Semi-finished blanks are surfaced to the desired prescription powers to produce finished lenses. Semi-finished ophthalmic lenses come in many forms, single vision, bifocal, and multifocal (progressive) types with different refractive indexes, segment styles and sizes.*

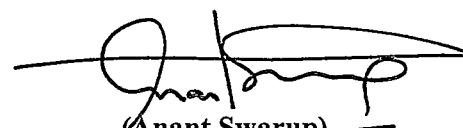
*The following types of products are excluded from the scope of product under consideration:*

- (i) Semi-finished ophthalmic lenses having refractive index higher than 1.60.*
- (ii) Polarized lenses - Polarized lenses have a special chemical molecule which are lined up specifically to block irrelevant light from passing through the lens. Only light rays that approach your eyes vertically can fit through those openings. The lenses block all the horizontal light waves bouncing off from any surface. As a result of this filtering, the image you see is a bit darker than usual. Objects look crisper and clearer with polarized lenses, and details are easier to see.*
- (iii) Polycarbonate lenses - Polycarbonate is a specific type of plastic which is very strong and is used for many purposes such as eyeglass lenses, car headlights, and other industrial applications. Polycarbonate is over 200 times stronger than glass and is often thinner than other types of lenses. Since lighter and thinner eyeglasses are less likely to slip off your nose and are more comfortable for everyday wear, polycarbonate lenses are widely used as eyeglass lens.*

- (iv) *Transition lenses - Transition lenses or photochromic lenses darken in the sunlight and lighten in softer light or the dark. These are ideal for sunglasses without having to wear them over your prescription glasses or having to constantly switch between the two. These can also cut down on the harmful glare of electronic devices making it an excellent lens material.*
- (v) *High and special purpose lenses - Special purpose lenses are wide-angle photographic lenses with different focal lengths or features that change the size of subject matters and are typically used in cameras. They are intended to produce special effects such as including more subject matter – wide angle, making larger images of distant subjects – telephoto, optionally varying image size – zoom and making large images of small objects – macro enlarging.*

**P. FURTHER PROCEDURE**

181. An appeal against the order of the Central Government arising out of these final findings shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the provisions of the Customs Tariff Act, 1975.

  
(Anant Swarup)  
Designated Authority