

**To be published in Part-I Section I of the Gazette of India Extraordinary  
No.14/03/2016-DGAD  
Government of India  
Department of Commerce  
Ministry of Commerce & Industry  
(Directorate General of Anti-Dumping & Allied Duties)  
4th Floor, Jeevan Tara Building, 5 Parliament Street, New Delhi -110001**

Dated 20<sup>th</sup> June, 2017

**Final Finding**

**Subject: Anti-dumping duty investigation concerning imports of "Textured Tempered Coated and Uncoated Glass", originating in or exported from China PR.**

1. F. No. 14/03/2016-DGAD: M/s Gujarat Borosil Limited (hereinafter also referred to as the Petitioner or Applicant) has filed an application before the Designated Authority (hereinafter also referred to as the Authority) in accordance with the Customs Tariff Act, 1975 as amended from time to time (hereinafter also referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of injury) Rules, 1995 as amended from time to time (hereinafter also referred to as the Rules) for imposition of Anti-dumping duty on imports of "Textured Toughened (Tempered) Glass with a minimum of 90.5% transmission having thickness not exceeding 4.2 mm (including tolerance of 0.2 mm) and where at least one dimension exceeds 1500 mm, whether coated or uncoated" (hereinafter also referred to as the subject goods or PUC) from China PR (hereinafter also referred to as the subject country).
2. Whereas, the Authority, on the basis of sufficient evidence submitted by the applicant, issued a Notification No.14/03/2016-DGAD dated 23<sup>rd</sup> June, 2016, published in the Gazette of India, initiating the subject investigations in accordance with the Rule 5 of the above Rule to determine existence, degree and effect of the alleged dumping of the subject goods, originating in or exported from China, and to recommend the amount of anti-dumping duty, which, if levied, would be adequate to remove the alleged injury to the domestic industry.

**A. PROCEDURE**

3. The procedure described herein below has been followed by the Authority with regard to the subject investigation:
  - i. The Designated Authority, under the above Rules, received a written application from the Applicant on behalf of the domestic industries, alleging dumping of

"Textured Tempered Coated and Uncoated Glass", originating in or exported from China PR.

- ii. The Authority notified the Embassy of China in India about the receipt of the anti-dumping application before proceeding to initiate the investigations in accordance with sub-rule (5) of Rule 5 supra.
- iii. The Authority issued a public notice dated 23rd June, 2016 published in the Gazette of India Extraordinary, initiating anti-dumping investigation concerning imports of the subject goods.
- iv. The Authority sent a copy of the initiation notification to the Embassy of China PR in India, known producers/exporters from China PR and the domestic industry as per the addresses made available by the applicant and requested them to make their views known in writing within 40 days of the initiation notification.
- v. The Authority sent exporter's questionnaires to elicit relevant information to the following known producers/exporters in China PR, (whose details were made available by the applicant) and gave them opportunity to make their views known in writing in accordance with the Rule 6(2) of the AD Rules.
  1. Dongguan CSG Solar Glass Co Ltd.
  2. Zhejiang Jiafu Glass Co Ltd ( Shanghai Flat glass, FSG Group)
  3. Henan Ancai Hi Tech Co Ltd.
  4. Shaanxi Topray solar wienan, China
  5. Xinyi Solar ( Hongkong) Limited
- vi. Following producers/exporters have filed their Questionnaire responses in the above matter.
  1. Henan Ancai Hi Tech Co Ltd.
  2. Xinyi PV Products (Anhui) Holding Ltd.
  3. Xinyi Solar ( Hongkong) Limited
  4. Dongguan CSG Solar Glass Co Ltd.
  5. Wujiang CSG Glass Co Ltd.
- vii. M/s. Shenzhen Topray Solar Co. Ltd., China have only filed injury submissions in the above matter.
- viii. The Authority also forwarded a copy of the Initiation Notification to the following known importers/users/user associations (whose names and addresses were made available to the authority) of subject goods in India 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):

1. Waaree Energies Limited
2. Alpex Exports Pvt Ltd
3. Vikram Solar Pvt Ltd
4. Surana Solar Limited
5. Topsun Energy Limited
6. Tata Power Solar Systems Limited
7. Emmvee Photovoltaic Power Pvt Ltd
8. Navitas Green Solutions Pvt Ltd
9. Sova Power Limited(Godown)

ix. Following importers/users have filed their submissions/representations in the above matter.

1. Emvee Solar
2. Vikram Solar
3. All India Solar Industries Association (AISIA)

x. The Authority made available non-confidential version of the evidence presented by interested parties in the form of a public file kept open for inspection by the interested parties as per Rule 6 (7).

xi. The Authority has examined the information furnished by the domestic producer to the extent possible on the basis of guidelines laid down in Annexure III to work out the cost of production and the non-injurious price of the subject goods in.

xii. The period of investigation for the purpose of present investigation is from 1st January 2015 to 31st December 2015 (12 months). However, the injury investigation period will cover the data of previous three years, i.e. April 2012 to March 2013, April 2013 to March 2014, April 2014 to March-2015 and POI.

xiii. Further information was sought from the applicant and other interested parties to the extent deemed necessary. Verification of the data provided by the domestic industry was conducted to the extent considered necessary for the purpose of the investigation.

xiv. Non-injurious price has been determined 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) so as to ascertain whether Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to the Domestic Industry.

xv. Transaction wise data was called from the Directorate General of Commercial Intelligence and Statistics (DGCI&S) and the same has been adopted for determination of volume and value of imports of product concerned in India.

- xvi. The Authority held an oral hearing on 15<sup>th</sup> May, 2017 to provide an opportunity to the interested parties to present relevant information orally in accordance with Rule 6 (6), which was attended by the representatives of domestic industry, M/s Henan Ancai Hi Tech Co Ltd., M/s Dongguan CSG Solar Glass Co Ltd., M/s Wujiang CSG Solar Glass Co Ltd., M/s Shenzhen Topray Solar Co. Ltd., exporters from China and M/s Vikram Solar and All India Solar Industries Association, importers/user association of the product in India. The interested parties who presented their views orally at the time of oral hearing were asked to file written submissions of the views expressed orally. The interested parties were provided opportunity to offer rejoinder submissions to the views expressed by other interested parties. The submissions made therein have been duly considered and addressed appropriately.
- xvii. Exporters, producers and other interested parties who have neither responded to the Authority, nor supplied information relevant to this investigation have been treated as non-cooperating interested parties.
- xviii. A Disclosure Statement was issued on 9.06.2017 containing essential facts under consideration of the Designated Authority, giving time up to 16.06.2017 to furnish comments, if any, on Disclosure Statement. The Authority has considered post disclosure comments received from interested parties appropriately.
- xix. \*\*\*in this 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 for the subject investigation is  
1US\$ = Rs.65.11.

## **B. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE**

4. The product under consideration in the present application is "Textured Toughened (Tempered) Glass with a minimum of 90.5% transmission having thickness not exceeding 4.2 mm (including tolerance of 0.2 mm) and where at least one dimension exceeds 1500 mm, whether coated or uncoated".
5. The subject goods are used as a component in Solar Photovoltaic Panels and Solar Thermal applications. The glass of thickness 3.2 mm and 4 mm is generally used in Solar Photovoltaic Panels and Solar Thermal applications as per the current trend. The minimum level of transmission required in the subject goods can be achieved by keeping the iron content low, typically less than 200 ppm. The transmission level goes up by about 2%-3% when coated with an anti-reflective coating. The glass whether coated or uncoated is tempered / toughened in a tempering furnace, as it is essential for solar applications.

## **Submissions by the Domestic Industries**

6. The submissions made by domestic industry are as follows:
  - i. The anti-dumping duties are required to be imposed on product under consideration whether in coated form or uncoated form.
  - ii. In past as well DGAD has restricted the scope of product under consideration on the basis of application and the same view can be taken in the present case.
  - iii. The product is also known by various names such as Solar Glass, Low Iron Solar Glass, High Transmission Photovoltaic Glass, Tempered Low Iron Patterned Solar Glass etc. The subject goods are classified under chapter heading 70071900. The customs classification, however, is indicative only, and the same is not binding on the scope of the PUC under investigation.
  - iv. According to the Domestic Industry, there is no difference in the subject goods produced by them and that imported from the subject country. The subject goods produced by the domestic industry and the subject goods imported from subject country are comparable in terms of characteristics such as physical and chemical characteristics, manufacturing process and technology, functions and uses, product specifications, distribution and market & tariff classification of the goods.
  - v. The claims of the exporters from China that since the domestic industry is not “capable” of producing solar glass below 3.2mm thickness, the solar glass under 3.2mm thickness should be excluded from the scope of the PUC is completely baseless and factually incorrect. The domestic industry has the capability to produce and have indeed produced the glass below 3.2mm thickness also during the Period of Investigation. The evidence in this regard is already on record. It may be seen that the quantities of thickness below 3.2mm produced by the Domestic Industry is rather limited which is on account of the fact that there was little demand of such thicknesses during the period. An analysis of the import data also confirms that the demand for solar glass below 3.2mm thickness was almost non-existent during the period of investigation. It needs to be appreciated that the production of the thicknesses is dependent upon the orders received. In any case, the legal test as well as the Authority’s consistent practice is to examine whether the domestic industry has the capability to produce an article and not the actual production during any particular period. The interested parties have also limited their objection to the “capability” of the Domestic Industry to produce thicknesses below 3.2mm.
  - vi. In the recent finding of the Authority in the case of “Seamless tubes, pipes & hollow profiles of iron, alloy or non-alloy steel (other than cast iron and stainless steel), whether hot finished or cold drawn or cold rolled of an external diameter not

exceeding 355.6 mm or 14” OD, originating in or exported from China PR.” the Authority, while defining the scope of the PUC held as under:

12... iv. *“As regards, the submission of certain interested parties to exclude a wide variety of pipes and tubes from the purview of the PUC on the ground that either the domestic industry does not manufacture the same or does not have the capacity to manufacture the same or does not manufacture quality products, **the Authority notes that the domestic industry has the required plant and machinery for manufacturing all the varieties of the PUC.** Therefore, exclusion of any variety of PUC from the purview of the PUC, other than those which have specifically been excluded from the purview of the PUC, may not be appropriate.*

vii. ***Domestic industry has provided supportive evidence that they have technology to manufacture and supply such grades** like ASTM A335 Gr. and P-91, which are higher than Grades SAE 8720, C-95, Boiler Pipes – T91/ P91/, T5/ P5, T9/ P9 and boiler pipes having thickness greater than 40mm, Process Pipes – Grade P5 and P9, Mother Pipes (Hollows) for cold drawing, being demanded for exclusion from the purview of the PUC. Thus Authority did not find appropriate to exclude from the scope of the product under consideration.*

- vii. The claim of the exporter that the domestic industry has not produced or is not capable of producing solar glass below 3.2mm thickness and therefore the solar glass under 3.2mm thickness should be excluded from the scope of the PUC, is without any legal or logical basis and the same is liable to be rejected outright.

#### **Submissions made by the producers/exporters/other interested parties**

7. The submissions made by other interested parties are as follows:

- i. That the 'like' domestic article is different to PUC on various parameters, including but not limited to the domestic industry products having characteristics such as higher field output, PID resistant, lowest iron content, toxin free glass, anti-reflective coating glass efficiency, accreditations.
- ii. The applicant has limited capability and only produces solar glass of 3.2mm, 4.0mm and 5.0mm thickness. Further, since the applicant has claimed to be the sole producer of the PUC, it is evident that the domestic industry is not capable of producing solar glass below the 3.2mm thickness. Therefore, the solar glass under 3.2mm thickness should be excluded from the scope of the PUC.

#### **Examination by the Authority**

8. The product under consideration in the present investigation as per the initiation notification is as follows-

“Textured Toughened (Tempered) Glass with a minimum of 90.5% transmission having thickness not exceeding 4.2 mm (including tolerance of 0.2 mm) and where at least one dimension exceeds 1500 mm, whether coated or uncoated.”

9. The subject goods are used as a component in Solar Photovoltaic Panels and Solar Thermal applications. The glass of thickness 3.2 mm and 4 mm is generally used in Solar Photovoltaic Panels and Solar Thermal applications as per the current trend. The minimum level of transmission required in the subject good can be achieved by keeping the iron content low, typically less than 200 ppm. The transmission level goes up by about 2%-3% when coated with an anti-reflective coating liquid. The glass whether coated or uncoated is tempered / toughened in a tempering furnace, as it is essential for solar applications.
10. The product in the market parlance is also known by various names such as Solar Glass, Low Iron Solar Glass, High Transmission Photovoltaic Glass, Tempered Low Iron Patterned Solar Glass etc. The subject goods are classified under chapter heading 70071900. However, it has been claimed by the petitioner that the subject goods are also being imported under various other tariff headings like 70031990, 70051010, 70051090, 70052190, 70052990, 70053090, 70071900 etc. It is clarified that the HS codes are only indicative and the product description shall prevail in all circumstances.
11. The contention of the interested parties that the applicant has limited capability and only produces solar glass of 3.2mm, 4.0mm and 5.0mm thickness therefore, the solar glass under 3.2mm thickness should be excluded from the scope of the PUC, has been examined and it has been found that the domestic industry is capable of producing solar glass below 3.2 mm and the same have been produced and commercially supplied in the POI. Therefore the said claim of the interested parties is found to be incorrect and is rejected.
12. With regard to like article, Rule 2(d) of the Anti-dumping Rules provides as under:-

"like article" means an article which is identical or alike in all respects to the article under investigation for being dumped in India or in the absence of such article, another article which although not alike in all respects, has characteristics closely resembling those of the articles under investigation;
13. After considering the information on record, the Authority holds that there is no material difference in product under consideration exported from subject country and the product produced by the Indian industry. Product under consideration produced by the domestic industry is comparable to the imported subject product in terms of physical characteristics, production technology & manufacturing process, functions & uses, product specifications, distribution & marketing. The two are technically and commercially substitutable.

14. Thus, the Authority holds that the product manufactured by the domestic industry and the subject goods imported into India from the subject country are like articles within the meaning of the Anti-dumping Rules;

### **C. SCOPE OF DOMESTIC INDUSTRY & STANDING**

#### **Submissions by the Domestic Industries**

15. The submissions made by the domestic industry are as follows:

- i. The petition has been filed by M/s Gujrat Borosil Limited Ltd. (referred to as Petitioner/Applicant) for imposition of anti-dumping duty on the subject goods from China PR. The petitioner is the sole producer of the subject goods in India therefore the petitioner alone constitutes a major proportion of Indian production of the subject goods in terms of rules. The petitioner has sufficient standing and constitutes domestic industry within the meaning of the Rules.
- ii. Petitioner has not imported the subject goods from subject country during the POI. Petitioner is not related (either directly or indirectly) to any exporter or importer of product under consideration in the subject country. Thus the petitioner is eligible domestic industry under Rules 2(b) and 5(3) of the AD Rules.

#### **Submissions made by the producers/exporters/other interested parties**

16. None of the interested parties have submitted any comment on the standing of the Domestic Industry.

#### **Examination by the Authority**

17. Rule 2 (b) of the AD rules defines domestic industry as under:

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

18. The application in the present case has been filed by M/s Gujrat Borosil Ltd., the only domestic producer of the product under consideration and who has provided detailed information for investigation in the matter of imposition of anti-dumping duty on imports of subject goods from China PR. The authority determined at the stage of initiation that the petitioner, being the sole producer of the subject good satisfied requirement of

standing under the Rules and the Petitioner constituted domestic industry within the meaning of the Rules.

19. The production of the petitioner alone constitutes 100% of Indian production. Accordingly, the authority holds that that the petitioner satisfied the requirement of standing under Rule 5(3) and constitutes domestic industry within the meaning of Rule 2(b).

#### **D. ISSUES RELATING TO CONFIDENTIALITY**

##### **Submissions by the Domestic Industries**

20. The submissions made by domestic industry are as follows:

- i. The petitioner has claimed only such information as confidential, the confidentiality of which has been permitted under the rules and as per consistent practice of the Authority.
- ii. The petitioner has provided sufficient non confidential version of the application. No interested party has been able to point out any specific instance of information which has been claimed confidential and confidentiality of which is not justified under the rules.
- iii. Information such as volume of exports to India, gross volume of sales in domestic market, production, sales, average price for exports to India have been provided in indexed version as the information is business proprietary information.
- iv. None of the exporters has provided the non-confidential version which is an exact replica of their confidential version. They have kept all the volume related information confidential. They have also not provided any statement of claim of confidentiality. Further, the responses are in stark violation of the specific guidelines issued by the Designated Authority with regard to the procedure to be followed for filing of non-confidential version of the exporter's questionnaire responses. We would, therefore, request the Hon'ble Designated Authority to disregard the submissions of the interested parties and also to reject the response of exporters and deny them the individual treatment.

##### **Submissions made by the producers/exporters/other interested parties**

21. The various submissions made by the producers/exporters/importers/other interested parties during the course of the present investigation with regard to confidentiality and considered relevant by the Authority are as follows:

- i. The petition suffers from excessive confidentiality. The petition provides absolutely

no information with respect to volume related information also.

- ii. The domestic industry has claimed and has been allowed excessive confidentiality in the sense that they have not made available their annual report in the public file.
- iii. Domestic Industry has also not provided sufficient details of their costing.

### **Examination by the Authority**

22. The Authority made available non confidential version of the information provided by various interested parties to all interested parties through the public file containing non-confidential version of evidences submitted by various interested parties for inspection as per Rule 6(7).
23. With regard to confidentiality of information Rule 7 of Anti-dumping Rules provides as follows:-

*“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.”*

24. The WTO Agreement on Anti-Dumping provides as follows with regard to confidentiality of information-

*“Article-6.5 Any information which is by nature confidential (for example, because its disclosure would be of significant competitive advantage to a competitor or because its disclosure would have a significantly adverse effect upon a person supplying the information or upon a person from whom that person acquired the information), or which is provided on a confidential basis by parties to an investigation shall, upon*

*good cause 28 shown, be treated as such by the authorities. Such information shall not be disclosed without specific permission of the party submitting it.*

*Article-6.5.1 The authorities shall require interested parties providing confidential information to furnish non confidential summaries thereof. These summaries shall be in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence. In exceptional circumstances, such parties may indicate that such information is not susceptible of summary. In such exceptional circumstances, a statement of the reasons why summarization is not possible must be provided.*

*Article-6.5.2 If the authorities find that a request for confidentiality is not warranted and if the supplier of the information is either unwilling to make the information public or to authorize its disclosure in generalized or summary form, the authorities may disregard such information unless it can be demonstrated to their satisfaction from appropriate sources that the information is correct.*

*Footnote to Article 6.5.2 (footnote 18 of the WTO Agreement on Anti-Dumping) provides as follows:– Members agree that requests for confidentiality should not be arbitrarily rejected.”*

25. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis was directed to provide sufficient non confidential version of the information filed on confidential basis. The Authority made available the non-confidential version of the evidences submitted by various interested parties in the form of public file.

#### **E. MISCELLANEOUS ISSUES**

##### **Submissions made by the producers/exporters/other interested parties**

26. The submissions made by the domestic industry are as follows:

- i. Injury to the domestic Industry is on account of the non-imposition of the duties on solar modules and the imposition of duty in present case would worsen the condition of the already suffering solar industry.
- ii. The authority failed to comply with the WTO provisions as it did not notify the Chinese Exporters prior to the initiation of the Investigation.

##### **Submissions by the Domestic Industries**

27. The submissions made by the domestic industry are as follows:

- i. The contention of the opposing interested parties that solar Industry is suffering is baseless. It has been claimed in the public brochure of Vikram Solar and other importers that their revenue has grown substantially, which in itself contradicts their argument.
- ii. The product under consideration accounts for a very small percentage of the total cost of the module manufacturing. Therefore, any imposition of anti-dumping duty on the product under consideration would have negligible bearing on the overall costing of the solar modules.
- iii. Solar Tempered Glass only accounts for about 5%-6% in the total cost of Solar Photovoltaic Module. Even the imposition of 20-25% anti-dumping duties will result into increase by at most 1%-2% in the cost of module. The prices of Modules have moved by 25%-30% in the last 2-3 years and in this backdrop this impact is negligible and certainly will not cause a mass scale preference for import of Modules as against buying from domestic sources. Similar sentiments have been raised in the investigations done by EU and the same have been rejected by the authorities.
- iv. The aggressive attitude of Chinese Exporters for exports is also evident from the fact that European Union and USA have already imposed very high duties on Chinese producers against the exports of solar glass.
- v. The impositions by European Union and USA have worsened the condition and Chinese producers have intensified dumping in Indian Market. If duties are not imposed, the Domestic Industry is destined to suffer.

#### **Examination by the Authority**

28. The claim of the interested parties that the Authority failed to comply with the WTO obligations by not notifying the Chinese exporters prior to the initiation of the investigation is unfounded and without any basis. There is no obligation either under the WTO Agreement or under the Indian laws that the exporters is ought to be informed prior to the initiation itself. The Authority had notified the Embassy of China prior to the initiation in terms of Anti-Dumping Rules. The Authority had also sent exporters' questionnaires, subsequent to issue of Initiation Notification to elicit relevant information from the known producers/exporters in China PR, and give them opportunity to make their views known in writing in accordance with the Rule 6(2) of the AD Rules. Therefore the said claim is rejected.
29. As regards the issue of Anti-Dumping duty on the PUC having adverse effect on the solar industry, the Authority observes that the share of the product under consideration in the total cost of solar modules, is minimal. This fact has also been noted in the findings issued by the European Union and USA. Therefore, any major impact of the duties on the solar industry is unforeseen and incorrect. In any case, none of the interested parties has provided any details or substantiation of their claim which could be examined by the Authority.

## **F. NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN**

### **Normal Value**

30. Under Section 9A(1)(c), normal value in relation to an article means:

*(i) the comparable price, in the ordinary course of trade, for the like article when meant for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6); or*

*(ii) when there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either-*

*(a) comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country as determined in accordance with the rules made under sub-section (6); or*

*(b) the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6):*

*Provided that in the case of import of the article from a country other than the country of origin and where the article has been merely trans shipped 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.*

### **Normal Value for China PR**

31. Provisions relating to Non- Market Economy countries

1. Annexure-I to AD rules states as under:

*7. In case of imports from non-market economy countries, normal value shall be determined on the basis if the price or constructed value in the market economy third country, or the price from such a third country to other countries, including India or where it is not possible, or on any other reasonable basis, including the price actually paid or payable in India for the like product, duly adjusted if necessary, to include a reasonable profit margin. An appropriate market economy third country shall be selected by the designated authority in a reasonable manner, keeping in view the level of development of the country concerned and the product in question, and due account shall be taken of any reliable information made available at the time of selection. Accounts shall be taken within time limits, where appropriate, of the investigation made in any similar matter in respect of any other market economy third country. The parties to the investigation shall be informed*

*without any unreasonable delay the aforesaid selection of the market economy third country and shall be given a reasonable period of time to offer their comments.*

8. (1) *The term “non-market economy country” means any country which the designated authority determines as not operating on market principles of cost or pricing structures, so that sales of merchandise in such country do not reflect the fair value of the merchandise, in accordance with the criteria specified in sub-paragraph (3)*

(2) *There shall be a presumption that any country that has been determined to be, or has been treated as, a non-market economy country for purposes of an anti-dumping investigation by the designated authority or by the competent authority of any WTO member country during the three year period preceding the investigation is a nonmarket economy country*

*Provided, however, that the non-market economy country or the concerned firms from such country may rebut such a presumption by providing information and evidence to the designated authority that establishes that such country is not a non-market economy country on the basis of the criteria specified in sub-paragraph (3)*

(3) *The designated authority shall consider in each case the following criteria as to whether:*

(a) *the decisions of the concerned firms in such country 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 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.*

*Provided, however, that where it is shown by sufficient evidence in writing on the basis of the criteria specified in this paragraph that market conditions prevail for one or more such firms subject to anti-dumping investigations, the designated authority may apply the principles set out in paragraphs 1 to 6 instead of the principles set out in paragraph 7 and in this paragraph”*

32. The Authority sent questionnaires to the known exporters from the subject country, advising them to provide information in the form and manner prescribed. The following producers and exporters from the subject country filed the prescribed questionnaire responses.

- i. Henan Ancai Hi Tech Co Ltd.
- ii. Xinyi PV Products (Anhui) Holding Ltd.
- iii. Xinyi Solar ( Hongkong) Limited
- iv. Dongguan CSG Solar Glass Co Ltd.
- v. Wujiang CSG Glass Co Ltd.

### **Submissions by the Domestic Industry**

33. The submissions made by domestic industry are as follows:

- i. The Domestic Industry had filed full information with regard to the normal value and export price which was necessary for the purpose of initiation of an investigation. In terms of Rule 5, the Domestic Industry is required to give information which is sufficient to justify the initiation of an investigation. Necessary evidence had also been provided in support of their claim of normal value as well as export price.
- ii. China should be considered a non-market economy, in line with the position taken by the Authority in previous cases, and by investigating authorities in other countries. Chinese producers' cost and price cannot be relied upon for determination of normal value.
- iii. China PR should be treated as nonmarket economy country for the following reasons:
  - a) Market economy status cannot be given unless the responding Chinese exporters establish that the prices of major inputs substantially reflect market values.
  - b) Market economy treatment must be rejected in such situations where Chinese exporters are unable to establish that their books are consistent with International Accounting Standards (IAS). The requirement on insisting compliance with International Accounting Standards is to ensure accuracy and adequacy of revenues and expenses, assets and liabilities expressed in the annual report.
  - c) Market economy status cannot be granted unless the responding Chinese exporters pass the test in respect of each and every parameter laid down under the rules. Contrarily, while examining material injury existence of a single parameter is considered sufficient to establish such injury. In other words, where one parameter is sufficient to establish existence of injury, failure to pass one single parameter is sufficient to reject the claim of market economy status.
  - d) It is not for the Authority to establish that the responding companies are operating under market economy environment and are entitled for market

economy treatment. But it is for the responding Chinese exporters to establish that they are operating under market economy conditions.

- e) Market economy status cannot be granted unless the responding company and its group as a whole make the claim. If one or more companies forming part of the group have not filed the response, market economy status must be rejected.
- f) It has been submitted that the normal value for China in such a case can be determined only in accordance with the provisions of para 7 of the Annexure I to Anti-dumping Rules without invoking proviso to 8(2) in view of the aforementioned facts and circumstances.
- g) The normal value in China can thus be determined on the basis of (a) import price from third country into India, (b) selling price in India, and (b) cost of production in India, duly adjusted, including selling, general and administrative expenses and profit. It is also submitted that since these options for determination of normal value are available, the Designated Authority may not kindly consider "any other basis" because this is required to be applied only when other basis listed under the law cannot be applied.
- h) Out of the five responding producers and exporters, only two namely Dongguan CSG Solar Glass Co Ltd. and Wujiang CSG Glass Co Ltd., have claimed the MET status however, the details provided for the claim are not complete. They have not provided information about their related companies supplying major raw materials used in the production of the subject goods. Their website clearly shows that the company is having advantage as they are procuring raw items and other items within group only. Wujiang and Dongguan have also not provided any information relating Kenda Enterprises Limited ("Kenda"), entity having 25% in the company shares and which can influence the decisions of the company through its board of directors. In view thereof, we humbly request the Authority to kindly reject the MET claim of the company.
- i) The responding producers from China namely Dongguan CSG, Wujiang CSG, Xinyi PV Products (Anhui) and Henan Ancai, have not provided their complete value chain, as their related entities in China have not participated in the investigation.
- j) The responding producers from China have conveniently omitted to provide any information as to the subsidies received by them by the government of China. The balance sheet of the Chinese producers and the investigations carried out by European Union and Turkey clearly show that the Chinese producers have taken benefit from the subsidies provided by the Chinese Government. It is submitted that the omission of such critical piece of information by the Chinese producers amounts to misleading the Authority and renders all the information filed by

them dubious. Therefore, the same must be rejected for the want of complete and correct information.

**Views of the opposing interested parties**

34. The normal value computed in the application for China PR is in contravention of the requirements as provided under Annexure I (7) of the AD Rules. Paragraph 10 of the Initiation Notification, as well as the Application, stipulates that the normal value for China PR has been computed on the basis of the cost of production, duly adjusted.

**Examination by the Authority**

35. At the stage of initiation, the Authority proceeded with the presumption by treating China PR as a non-market economy country. Upon initiation, the Authority advised the producers/exporters in China to respond to the notice of initiation and provide information relevant to determination of their market economy status. The Authority sent copies of the MET questionnaire to all the known producers/ exporters for rebutting presumption of nonmarket economy in accordance with criteria laid down in Para 8(3) of Annexure-I to the Rules. The Authority also requested Government of China to advise the producers/exporters in their country to provide the relevant information.

36. The following producers and exporters from the subject country filed the prescribed questionnaire responses.

- i. Henan Ancai Hi Tech Co Ltd.
- ii. Xinyi PV Products (Anhui) Holding Ltd. along with the exporter Xinyi Solar ( Hongkong) Limited
- iii. Dongguan CSG Solar Glass Co Ltd.
- iv. Wujiang CSG Glass Co Ltd.

37. The MET questionnaire was filed by the following producers and exporters from the subject country.

- i. Dongguan CSG Solar Glass Co Ltd.
- ii. Wujiang CSG Glass Co Ltd.

38. 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 provide information and sufficient evidence on the basis of the criteria specified in sub paragraph (3) in Paragraph 8 and establish to the contrary. The exporter/ producer of the subject goods from China are required to furnish necessary information/sufficient evidence as mentioned in sub-paragraph (3) of paragraph 8 in response to the Market Economy Treatment questionnaire to enable the Designated Authority to consider the following criteria as to whether:-

- i. The decisions of concerned firms in China PR regarding prices, costs and inputs, including raw materials, cost of technology and labor, 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;
  - ii. 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 depreciation of assets, other write-offs, barter trade and payment via compensation of debts;
  - iii. Such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms and
  - iv. The exchange rate conversions are carried out at the market rate.
39. The Authority observes that only two producer exporters from China, viz. M/s Dongguan CSG Solar Glass Co Ltd. and M/s. Wujiang CSG Glass Co Ltd. have claimed for market economy treatment. However, it has been observed that the said producers/exporters have procured the raw material for the production of PUC from related entities about which complete details as to the rates, extent, and prices of such procurements have not been submitted. The said transaction of raw material is enough to place them on an unfair advantageous position. In view of the same the Authority has decided to not give Market Economy Treatment to the said producers/exporters.
40. Para 7 of Annexure I of the Anti-dumping Rules provides as under:

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

41. In view of the above, the normal value for the subject products imported from China PR into India has been determined on "any other basis" by considering best available information with regard to cost of production and after reasonable additions for selling, general & administrative expenses and reasonable profit margin. The normal value has been constructed considering consumption of major raw materials as per information

provided by the domestic industry, international prices for major raw materials, conversion cost, interest, SGA, etc. at the levels allowed for the domestic industry. Further, reasonable profit @ 5% of cost of sales has also been added for constructing Normal Value.

**Export price in case of M/s Henan Ancai Hi Tech Co Ltd., China**

42. During the POI, Henan Ancai Hi Tech Co Ltd. has exported subject goods to India as per the details mentioned in Appendix 2 of the Questionnaire response. The exporter has claimed adjustment on account of inland freight, overseas freight, marine insurance, credit cost, Bank charges etc. and the same have been accepted after necessary verification. The CNV & net export price was calculated separately for coated and uncoated for fair comparison and then weighted average for the subject goods is to be determined as below.

Quantity	Constructed Normal value		Net export Price		Dumping Margin				
	MT	USD/MT	Rs/MT	USD/MT	Rs/MT	USD	Rs	%	Range
***	***	***	***	***	***	***	***	***	25-35

**Export price in case of M/s Xinyi Solar ( Hongkong) Limited, China**

43. During the POI, M/s. Xinyi PV Products (Anhui) Holding Ltd. has exported subject goods to India through its exporter M/s Xinyi Solar ( Hongkong) Limited, as per the details mentioned in Appendix 2 of the Questionnaire response. The exporter has claimed adjustment on account of inland freight, overseas freight, marine insurance, credit cost, Bank charges etc. and the same have been accepted after necessary verification. The CNV & net export price was calculated separately for coated and uncoated for fair comparison and then weighted average for the subject goods is to be determined as below.

Quantity	Constructed Normal value		Net export Price		Dumping Margin				
	MT	USD/MT	Rs/MT	USD/MT	Rs/MT	USD	Rs	%	Range
***	***	***	***	***	***	***	***	***	35-45

**Export price in case of M/s Dongguan CSG Solar Glass Co Ltd., China**

44. During the POI, M/s Dongguan CSG Solar Glass Co Ltd. has exported subject goods to India. Most of the exports are directly and only 8% are through an exporter in Singapore, who has not filed the response and hence not considered co-operative. However, for the direct exports details in Appendix 2 of the Questionnaire response has been submitted and they have claimed adjustment on account of inland freight, overseas freight, marine

insurance, credit cost, Bank charges etc. and the same have been accepted after necessary verification. The CNV & net export price was calculated separately for coated and uncoated for fair comparison and then weighted average for the subject goods is to be determined as below

Quantity	Constructed Normal value		Net export Price		Dumping Margin			
	USD/MT	Rs/MT	USD/MT	Rs/MT	USD	Rs	%	Range
***	***	***	***	***	***	***	***	20-30

### **Export price in case of M/s Wujiang CSG Glass Co Ltd., China**

45. During the POI, Wujiang CSG Glass Co Ltd. has exported subject goods to India as per the details mentioned in Appendix 2 of the Questionnaire response. The exporter has claimed adjustment on account of inland freight, overseas freight, marine insurance, credit cost, Bank charges etc. and the same have been accepted after necessary verification. The CNV & net export price was calculated separately for coated and uncoated for fair comparison and then weighted average for the subject goods is to be determined as below.

Quantity	Constructed Normal value		Net export Price		Dumping Margin			
	USD/MT	Rs/MT	USD/MT	Rs/MT	USD	Rs	%	Range
***	***	***	***	***	***	***	***	15-25

### **Normal value and Export Price for all other producers and exporters**

46. For other producers/ exporters from China who have not participated / cooperated in this investigation, the Authority determined the normal value and export price on the basis of best facts available in terms of Rule 6(8) of the Antidumping Rules. The normal value, net export price and dumping margin in respect of other producers/exporters of the subject goods is to be determined as mentioned in dumping margin table below.

### **DUMPING MARGIN**

47. The dumping margin for subject goods has been determined by comparing constructed normal value and net export price at ex-factory level for coated and uncoated form of the subject goods separately and then weighted average has been calculated. The table below shows the weighted average values for co-operative producers/exporters.

Sr. no.	Producer	NV/CNV	NEP	Dumping Margin		
		USD/MT	USD/MT	USD/MT	%	Range
1.	Henan Ancai Hi	***	***	***	***	25-35

Sr. no.	Producer	NV/CNV	NEP	Dumping Margin		
	Tech Co Ltd					
2.	Xinyi PV Products (Anhui) Holding Ltd. through Xinyi Solar ( Hongkong) Limited	***	***	***	***	35-45
3.	Dongguan CSG Solar Glass Co Ltd	***	***	***	***	20-30
4.	Wujiang CSG Glass Co Ltd	***	***	***	***	15-25
5.	Any other	***	***	***	***	35-45

48. It is seen that the dumping margin for the subject goods is more than de-minimus for imports for all the exporters from the subject country

## **G. METHODOLOGY FOR INJURY ASSESSMENT AND EXAMINATION OF INJURY AND CAUSAL LINK**

### **Views of the Domestic Industry**

49. The following are the injury related submissions made by the domestic industry during the course of the present investigation and considered relevant by the Authority:

- i. Imports of the product under consideration have shown significant increase over the years with a significant increase in POI. Imports have also shown increase in relation to production and consumption in India;
- ii. Market share of China in demand is significant. Market share of the domestic industry has decreased in the POI as compared to the base year. The same is due to significant imports from China;
- iii. With reduction in the prices by the foreign producers, the only choice available to the Indian producer is to either realign their prices with the changes in the import prices or to lose orders and hence the market share;
- iv. Domestic industry prices, reflects the effect of the prices that are being offered by the importers in the domestic market;
- v. The price underselling, price undercutting is positive and substantial. Further, the Domestic Industry is suffering from price depression as they are not able to increase its prices to reasonable terms. The main reason for this is high volume of imports from China that too at dumped and injurious prices.
- vi. Performance of the domestic industry has steeply deteriorated in terms of profits,

return on investments and cash profits to a very significant extent.

- vii. The decline in profitability of the domestic industry was due to significant increase in the import volume at non-remunerative prices from China.
- viii. The increase in selling price was lower than the increase in cost of production and thus the dumped imports are creating price suppression effect on the domestic industry.
- ix. The domestic industry has suffered material injury in connection with dumping of subject goods from China. Further, the domestic industry is threatened with continued injury, should the present condition continue.

**Submissions made by the producers/exporters/importers/other interested parties**

50. The following are the injury related submissions made by the opposing interested parties during the course of the present investigation and considered relevant by the Authority
- i. The Domestic Industry is not suffering any injury and has improved throughout the injury investigation period;
  - ii. The imports from China have no negative impact on the performance of the Domestic Industry;
  - iii. There is no price undercutting, price suppression and depression and therefore, the claim of Domestic Industry of any injury on account of imports from China should be rejected;
  - iv. The Profitability of the domestic industry has increased with respect to imports and vice-versa.

**Examination by the Authority**

51. The impact of the dumped imports on the domestic industry is to be examine in terms of Para (iv) of Annexure-II of the AD Rules, which states as follows:

*“The examination of the impact of the dumped imports on the domestic industry concerned, shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the Industry, including natural and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of margin of dumping actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments.”*

52. The injury analysis made by the Authority hereunder addresses the various submissions made by the interested parties during the course of the present investigations and considered relevant by the Authority.
53. The Authority computed the non-injurious price in accordance with Annexure 3 to the Anti-dumping Rules and the established practices of the DGAD.
54. For the examination of the impact of imports on the domestic industry in India, the Authority has considered such indices having a bearing on the state of the industry as production, capacity utilization, sales quantum, stock, profitability, net sales realization, the magnitude and margin of dumping etc. in accordance with Annexure II(iv) of the Rules supra.

### **I. Volume Effect of Dumped Imports**

#### **Import Volume**

55. 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 DGCI&S. The volume of imports of the subject good from the subject country has been analyzed as under:

<b>Particulars</b>	<b>Units</b>	2012-13	2013-14	2014-15	POI
Imports from subject country	MT	***	***	***	***
Trend	Indexed	100	292	1185	2379
Imports from other countries	MT	***	***	***	***
Trend	Indexed	100	0	147	68
Total Imports	MT	***	***	***	***
Trend	Indexed	100	172	759	1431
Domestic Sales-Applicant	MT	***	***	***	***
Trend	Indexed	100	144	153	204
Total Demand (MT)	MT	***	***	***	***
Trend	Indexed	100	150	277	455
<b>Share in Total Imports</b>					
Imports from China PR	%	59	100	92	98
Imports from Other Countries	%	41	0	8	2

56. It is noted from the above table that imports of the subject goods from the subject country have increased in absolute terms in POI as compared to the previous years.
57. The share of imports of subject country in overall imports is 98%. Thus, it is seen that the volumes from subject country are very significant in absolute terms as well as in relation to total imports.

## **II. Price Effect of Dumped Imports on the Domestic Industry**

58. With regard to the effect of the dumped imports on prices, it is required to be analyzed whether there has been a significant price undercutting by the alleged dumped imports as compared to the price of the like products in India, or whether the effect of such imports is otherwise to depress prices or prevent price increases, which otherwise would have occurred in the normal course. The impact on the prices of the domestic industry on account of the dumped imports from subject country has been examined with reference to the price undercutting, price underselling, price suppression and price depression, if any. For the purpose of this analysis the cost of production, Net Sales Realization (NSR) and the Non-injurious Price (NIP) of the Domestic industry have been compared with the landed cost of imports from subject country.

### **a. Price Undercutting**

59. In order to determine whether the imports are undercutting the prices of the domestic industry in the market, the Authority has compared landed price of imports with net sales realization of the domestic industry for subject goods (coated and uncoated glass) and , the weighted average of the two is as below:

Landed Value of Imports of Subject Country	Rs./ MT	37309
Selling Price	Rs./ MT	***
Price Undercutting	Rs./ MT	***
Price Undercutting	%	***
Price Undercutting	Range	5-15

60. The above analysis clearly shows that the Domestic Industry has suffered price undercutting. Further, the Domestic Industry has claimed that they could not increase its selling price due to price pressure of low priced dumped imports from subject country which have also increased substantially in quantitative terms during POI.

### **b. Price Underselling**

61. The Authority has also examined price underselling suffered by them on account of dumped imports from subject country as per DGCI&S data. The comparison has been made for coated and uncoated glass, the weighted average of the two is as below:

Landed Value of Imports of Subject Country	Rs./ MT	37309
Non Injurious Price	Rs./ MT	***
Price Underselling	Rs./ MT	***
Price Underselling	%	***
Price Underselling	Range	5-15

62. It is noted from the above table that the domestic industry has suffered significant price underselling on account of imports of the subject goods from the subject country.

**c. Price Suppression and Depression**

63. In order to determine whether the dumped imports are suppressing or depressing the domestic prices and whether the effect of such imports is to suppress prices to a significant degree or prevent price increases which otherwise would have occurred in normal course, the Petitioner has given details regarding the changes in the costs and prices over the injury period, as detailed below:

<b>Particulars</b>	<b>Unit</b>	<b>2012-13</b>	<b>2013-14</b>	<b>2014-15</b>	<b>POI</b>
Landed Value of Imports of Subject Country	Rs./MT	35,963	42,442	38,082	37,309
Index	Indexed	100	118	106	104
Wt. Average Cost of Sales	Rs./MT	***	***	***	***
Trend	Indexed	100	126	157	149
Wt. Average Domestic Selling Price	Rs./MT	***	***	***	***
Trend	Indexed	100	113	124	127

64. From the above Table, it is clear that the landed value of imports from the subject country decreased in POI as compared to the previous years 2013-14 and 2014-15. Domestic Industry was forced to match their prices with the import prices. Hence the selling price during the POI and the entire injury period are much more than the cost of sales. This clearly proves that the prices of the Domestic Industry are suppressed and depressed.

**(III) Economic Parameters of the Domestic Industry**

65. 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. With regard to 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 and unbiased evaluation of all relevant economic factors and

indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments.

66. The various injury parameters relating to the domestic industry are discussed herein below:

i. **Market share:** The details of imports, domestic sales and the market share of the domestic industry is as below:

	Unit	2012-13	2013-14	2014-15	POI
Domestic Industry Sale	MT	***	***	***	***
	Indexed	100	144	153	204
Imports from Subject Country	MT	***	***	***	***
Imports from Other Countries	MT	***	***	***	***
Total Imports	MT	***	***	***	***
Total Demand	MT	***	***	***	***
	Trend	100	150	277	455
<b>Market share in Demand</b>					
Of Domestic Sales	%	***	***	***	***
Of Imports from Subject Country	%	***	***	***	***
Of Imports from Other Countries	%	***	***	***	***

As is clear from the above table, imports of the subject goods from subject country have increased throughout the injury investigation period. It is also noted that market share of domestic sales has decreased sharply during POI as compared to the preceding years whereas market share of imports from subject country during the same period has increased substantially.

ii. **Profitability:** It is noted that despite the fact that cost of sales of the Domestic Industry declined in the POI and the selling price increased marginally, they are still unable to make profits due to the price pressure exerted by the dumped imports from the subject country. The Domestic Industry has submitted that they were forced to match the import prices offered by the exporters. It is also seen from the data furnished by the domestic Industry that while the selling price saw an upward trend, the same consistently remained below the cost of sales of the Domestic Industry resulting into continued losses

due to the overall pressure on their selling prices.

Particulars	Unit	2012-13	2013-14	2014-15	POI
Cost of sales	Rs./MT	***	***	***	***
Trend	Indexed	100	126	157	149
Selling price	Rs./MT	***	***	***	***
Trend	Indexed	100	113	124	127
Profit/Loss	Rs./MT	***	***	***	***
Trend	Indexed	100	(41)	(258)	(133)
Profit/Loss	Rs. Lacs	***	***	***	***
Trend	Indexed	100	(59)	(396)	(272)
PBIT	Rs. Lacs	***	***	***	***
Trend	Indexed	100	(34)	(315)	(211)

iii. **Return on Investment:** The return on investment has seen significantly negative trend as can be seen from the table below:

Particulars	Unit	2012-13	2013-14	2014-15	POI
ROI	%	***	***	***	***
Trend	Indexed	100	(29)	(27)	(168)

iv. **Production and Capacity Utilization:** It can be seen that the production of the Domestic Industry has increased in the POI as compared to the base year which is largely due to the fact that base they have increased their capacity and started production of coated glass from 2013-14. The capacity utilization of the Domestic Industry also followed the same trend as that of production. It is noted that though the production of the domestic industry has increased, they are still not able to operate at anywhere close to their capacity, this is despite the fact that there is enough demand in the country and the demand has increased in during the injury period.

Particulars	Unit	2012-13	2013-14	2014-15	POI
Capacity	MT	***	***	***	***
Total Production	MT	***	***	***	***
	Indexed	100	132	150	191
Capacity Utilization	%	***	***	***	***
	Indexed	100	87	99	126

v. **Sales Volumes:** It is noted that the sales volume of the Domestic Industry has increased gradually during the injury investigation period which is largely to meet the increased

demand in the country which has increased during the same period.

Particulars	Unit	2012-13	2013-14	2014-15	POI
Domestic	MT	***	***	***	***
	Indexed	100	144	153	204
Exports	MT	***	***	***	***
	Indexed	100	147	491	634
Total Sales	MT	***	***	***	***
	Indexed	100	144	172	229

vi. **Inventories:** The data relating to inventory of the subject goods is shown in the following table:

Particulars	Unit	2012-13	2013-14	2014-15	POI
Inventory	MT	***	***	***	***
Trend	Indexed	100	90	77	61

vii. **Employment and Wages:** The position with regard to employment and wages is as follows:

	Unit	2012-13	2013-14	2014-15	POI
Employees	Number	***	***	***	***
	Indexed	100	98	106	138
Wages/employee	Rs/Number	***	***	***	***
	Indexed	100	111	132	129

It is noted from the above table that the employees engaged by the Domestic Industry increased in the injury investigation period in line with increase in capacity and production. However, the wages paid to them has decreased during the POI as compared to the immediate previous year.

viii. **Productivity:** It can be seen from the table below that productivity in terms of production per employee has increased in the POI as compared to the base year. Despite increase in productivity, the performance of the Domestic Industry continued to be negative in POI. Accordingly, productivity is not a factor that can be attributed to injury.

	Unit	2012-13	2013-14	2014-15	POI
Production (MT)	MT	***	***	***	***
Employees	No.	***	***	***	***

Production/employee	MT/No.	***	***	***	***
Trend	Indexed	100	135	144	139

- ix. **Magnitude of Dumping:** Magnitude of dumping is an indicator of the extent to which the dumped imports can cause injury to the domestic industry. The analysis shows that the dumping margin determined against subject country is above *de minimis* and significant.
- x. **Ability to raise Capital Investment:** The future investment in the sector is marred by the presence of dumped imports from subject country. The negative profitability, return on investment along with reduced market share indicates that the ability of the domestic industry to raise capital investments for the sector is seriously affected due to the dumped imports from the subject country.
- xi. **Factors affecting domestic prices:** The examination indicates that there is a healthy demand in India for the subject goods. The dumped import prices from subject country are directly affecting the prices of the domestic industry in the domestic market. It is also noted that the landed value of subject goods from subject country are below non-injurious price of the domestic industry. Further, landed value from subject country had suppressed / depressed the prices of the Domestic Industry causing financial losses to them. The imports of the product under consideration from countries other than subject country are not injuring the domestic industry or are at non-dumped prices as the prices offered by these countries are significantly higher. Demand for the product is showing an increase trend and, therefore, could not have been a factor responsible for price depression and suppression faced by the domestic industry. It is thus evident that the dumped goods from subject country are responsible for the depressed and suppressed prices of the domestic industry.
- xii. **Growth:** There was positive growth of the domestic industry in terms of sales and production in the POI as compared to the base year. However, profits, cash profit as well as ROI remained negative in the POI as compared to the preceding years despite significant increase in demand. The domestic industry has contended that with increase in demand, the domestic industry had expected growth in profits, comfortable cash flow and increase in return on investments. However, the domestic industry was not able to achieve the same due to the presence of the dumped imports from subject country.

#### (IV) CONCLUSION ON MATERIAL INJURY

67. After examining the volume and price effects of imports of subject goods from subject country and its impact on the domestic industry, the Authority concludes that the dumped imports of the subject goods from subject country increased significantly throughout the injury investigation period in absolute terms. With regard to price effect on account of imports of subject goods from subject country, it is noted that imports of

the subject goods from subject country is suppressing / depressing the prices of domestic industry. Comparison of the landed values with the non-injurious prices of the Domestic Industry also reveals significant price underselling. With regard to consequent impact of the dumped imports on the domestic industry, it is concluded that the performance remained negative in respect of profit, return on investment and cash flow. Thus, the Authority concluded that the domestic industry has suffered material injury during the period of investigation.

**(V) OTHER KNOWN FACTORS & CAUSAL LINK**

68. Having examined the existence of material injury, volume and price effects of dumped imports on the prices of the domestic industry, in terms of its price underselling and price suppression, and depression effects, other indicative parameters listed under the Indian Rules and Agreement on Anti-dumping have been examined by the Authority to see whether any other factor, other than the dumped imports could have contributed to injury to the domestic industry.

**(a) Volume and prices of imports from third countries**

69. During POI, imports of the subject goods from countries other than the subject country are not significant in volume and were reported at high prices. Therefore, the imports from other countries cannot be considered to have caused injury to the domestic industry

**(b) Contraction of demand and changes in the pattern of consumption.**

70. There has been a constant rise in demand of the product concerned throughout the injury period. Therefore, decline in demand is not a possible reason of injury to the Domestic Industry.

**(c) Developments in technology:**

71. Technology for production of the product concerned has not undergone any change. Thus, development in technology is also not a factor causing injury to the domestic injury.

**(d) Trade restrictive practices of and competition between the foreign and domestic producers**

72. There is no trade restrictive practice, which could have contributed to the injury to the Domestic Industry as the raw materials as well as the subject goods are freely importable in the country.

**(e) Export performance of the domestic industry**

73. The injury analysis has been done by the Authority taking into consideration their domestic operations only. Therefore, performance in the export market has not affected the present injury analysis.

**(f) Productivity of the Domestic Industry**

74. It is noted that the productivity of the domestic industry in terms of production per employee as well as production per day has increased over the period.

75. It is thus noted that listed known other factors do not show that the domestic industry could have suffered injury due to these other factors. None of the interested parties has also led any evidence to suggest that the material injury caused to the Domestic Industry is attributable to other known factors. On the other hand, the following parameters show that injury to the domestic industry has been caused by dumped imports:

- i. The imported subject goods from subject country were at significantly low prices. Resultantly, the domestic industry was not able to increase its prices commensurate with the increasing costs. The price depression and price suppression suffered by the domestic industry is primarily on account of the dumped imports of the product from subject country.
- ii. The pressure on the domestic prices of the domestic industry led to continued losses and negative return on investment during the POI. The disability to increase price coupled with the increasing costs has materially injured the financial performance of the Domestic Industry.

76. It is therefore, concluded that the domestic industry suffered material injury due to dumped imports from subject country.

**(VI) MAGNITUDE OF INJURY MARGIN**

77. The determined non-injurious price of the subject goods produced by the Domestic Industry in coated and uncoated form has been compared with the landed value of the exports from subject country for determination of injury margin during POI. The weighted average injury margin determined are as under:-

Sr. no.	Producer	Landed Value	NIP	Injury Margin		
		USD/MT	USD/MT	USD/MT	%	Range
I	Henan Ancai Hi Tech Co Ltd	***	***	***	***	5-15
Ii	Xinyi PV Products (Anhui) Holding Ltd. through Xinyi	***	***	***	***	5-15

Sr.	Producer	Landed Value	NIP	Injury Margin		
	Solar ( Hongkong) Limited					
Iii	Dongguan CSG Solar Glass Co Ltd	***	***	***	***	15-25
Iv	Wujiang CSG Glass Co Ltd	***	***	***	***	10-20
V	Any Other	***	***	***	***	20-30

## **H. POST DISCLOSURE COMMENTS**

78. The post disclosure submissions have been received from the interested parties. The issues raised therein have already been raised earlier during the investigation and also addressed appropriately. However, for the sake of clarity the submissions by the interested parties are being examined as below:

### **Submission made by the Domestic Industry**

79. The submissions have been summarized as below:

- a) The response of Chinese producers/exporters ought to be rejected as they have failed to provide any information as to the subsidies received by them from the government of China. The balance sheet of the Chinese producers and the investigations carried out by European Union and Turkey clearly show that the Chinese producers have taken various benefit from the Chinese Government. The omission of such critical piece of information by the Chinese producers amounts to misleading the Authority and renders all the information filed by them dubious.
- b) The responding producers from China namely Dongguan CSG, Wujiang CSG, Xinyi PV Products (Anhui) and Henan Ancai, have not provided their complete value chain, as their related entities in China have not participated in the investigation. Therefore, the responses of Chinese producers should be rejected for want of full and complete response.
- c) The producers/exporters from China have not disclosed the details with regard to percentage shareholding. It has also not given any details regarding all the related companies who are engaged in the production related activity of the subject goods.
- d) Wujiang has not provided information about its related companies supplying one of the major raw material used to produce subject goods. Their website clearly states that the company is having advantage as they are procuring raw items and other items within group only.

### **Submission made by other interested parties/Producers/Exporters/Importers**

80. The submissions have been summarized as below:

- a) Disclosure statement does not capture all the submissions of All India Solar Industries Association (AISIA) such as submissions on material injury.
- b) The Authority has treated some basic information such as trend of ROI, provided on non-confidential basis in the petition by the petitioner, as confidential in the Disclosure Statement. Thus the Disclosure statement suffers from serious flaws hence should be reissued by the Authority with necessary facts.
- c) Disclosure statement does not show any material injury as the domestic sales of the Domestic Industry have doubled in the POI as compared to the base year, also significant growth is demonstrated in interest cost, production and capacity utilization. The alleged dumped imports have not caused any impact on the wages and employment since there is substantial improvement in the production performance of the employees.
- d) The Authority has accepted the Export price of M/s Dongguan CSG Solar Glass Co Ltd, China and M/s Wujiang CSG Solar Co Ltd as it was submitted with the Exporter's Questionnaire response without any further adjustment to the export price (with the only exception of ignoring 8% of the total transaction made through Singapore in case of. M/s Dongguan CSG Solar Glass Co Ltd). Any other adjustment to the Export Price and not mentioned in the Disclosure statement may amount to violation of principle of natural justice.
- e) The rejection of MET claim of Dongguan CSG and Wujiang CSG by the Authority was done on wrong and misleading grounds that Dongguan CSG has procured raw material from related parties and the detail of rates, extent and prices of such procurements have not been provided to the Authority. Despite been the categorical disclosure at all appropriate time that it is only Dongguan CSG and not Wujiang CSG, who have purchased raw material from related parties. The Authority has alleged that Wujiang CSG has purchased raw material from related party is factually incorrect. The onsite verification was not conducted at China for Dongguan CSG and Wujiang CSG despite filing detailed questionnaire response and repeated request by the parties.
- f) The trend analysis of landed value, cost of sales and average selling price reflects that the domestic price of subject goods has increased substantially during the POI as compared to the previous years 2013-14 and 2014-15. The domestic industry is able to increase the domestic selling price during the POI, despite decline in the landed value of alleged dumped article as well as cost of production.
- g) The Applicant has utilized the production capacity to the optimum level. There is no scope for the Applicant to meet the increasing demand of the country. Thus it is evident that the levy of anti-dumping duty will not improve quantitative economic parameters of the Applicants.

- h) There is huge adverse impact of imports of solar cells and modules from various countries but the Authority has not taken into account the adverse impact due to non-imposition of anti-dumping duty on solar cells and modules while arriving at price injury.

### **Examination by the Authority**

81. It is noted that the issues raised at post disclosure stage have already been examined by the Authority in above relevant paragraphs, however for the sake of the clarity of the submissions they are addressed as below:
- a) The parties were given sufficient opportunity to verify the data marked as non-confidential kept in public file for inspection, and wherever it has been erroneously marked confidential; the same has been rectified in the Final Findings. It has not affected the rights of any interested party because of availability of all such information in Public File.
  - b) As regards the issue of rejection of MET claim by M/s Dongguan CSG Solar Glass Co Ltd, China and M/s Wujiang CSG Solar Co Ltd it has been observed that both the companies are jointly controlled by the parent company CSG Group. Within the CSG Group products are sold and also raw materials purchased and technical services received. It is also noticed that loans are also provided within the CSG Group. In the books of accounts it is also noticed that there are accounts receivable, interest payable and other payables within the groups. The exporters failed to substantiate with the documents that all these transactions are at arm's length. In view of that the Authority has rejected the MET claim of both the exporters.
  - c) As regards the issue of calculation of Net Export Price of M/s Dongguan CSG Solar Glass Co Ltd, China and M/s Wujiang CSG Solar Co Ltd, the Authority has calculated the NEP after deducting inland freight, handling charges, overseas freight, overseas insurance, export packing, credit expenses, bank charges and 4% non-refundable VAT adjustments as per the records submitted by the exporters.
  - d) The dumped imports of the subject goods from subject country increased significantly throughout the injury investigation period in absolute terms and the imports are suppressing/depressing the prices of domestic industry. Comparison of the landed values with the non-injurious prices of the Domestic Industry also reveals significant price underselling. The performance of the Domestic Industry remained negative in respect of profit and return on investment. There is healthy growth in demand of the subject goods and production as well as sales of Domestic Industry has increased, however, the increase in selling price is not as much as the cost of sales, thereby, causing material injury to the Domestic Industry.

- e) With regard to the submission that the petitioner is not in a position to meet the entire Indian demand and even the capacity set up by the petitioner is less than the total Indian demand, the Authority notes that the imposition of the anti-dumping measures would not restrict imports from the subject country in any way, and therefore, would not affect the availability of the product to the consumers. The consumers could still access all sources of supply at a fair market price. The Authority further notes that the antidumping rules provide for imposition of suitable and adequate anti-dumping measure to provide a fair and level playing field to the domestic industry vis-à-vis dumping.

## **H. CONCLUSION**

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

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

### **Indian Industry's Interest And Other Issues**

83. The Authority recognizes that imposition of antidumping duties might affect the price level of product in India. However, fair competition in Indian market will not be reduced by the anti-dumping measures. On the contrary, imposition of anti-dumping measures would remove the unfair advantage gained by dumping practices, would arrest the decline of the Domestic Industry and help maintain availability of wider choice to the consumers of subject goods. Consumers could still maintain two or more sources of supply.
84. The Authority notes that the purpose of antidumping duties, in general, is to eliminate injury caused to the Domestic Industry by unfair trade practices of dumping so as to re-establish a situation of open and fair competition in Indian market, which is in the general interest of the country. Imposition of anti-dumping measures would not restrict imports from the subject country in any way, and therefore, would not affect the availability of the products to the consumers.

## **I. RECOMMENDATIONS**

85. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the exporters, importers and other interested parties to provide positive information on the aspects of dumping, injury and causal link. Having initiated and conducted the investigation into dumping, injury and the causal link thereof in terms of the AD Rules and having established positive dumping margins as well as material injury to the Domestic Industry caused by such

dumped imports, the Authority is of the view that imposition of antidumping duty is required to offset dumping and injury. Therefore, the Authority considers it necessary to recommend imposition of definitive anti-dumping duty on imports of subject goods from the subject country in the form and manner described hereunder.

86. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of definitive anti-dumping duty equal to the lesser of margin of dumping and margin of injury, from the date of notification to be issued in this regard by the Central Government, so as to remove the injury to the Domestic Industry. Accordingly, the antidumping duty equal to the amount indicated in Col No.9 of the table below is recommended to be imposed on all imports of the subject goods originating in or exported from the subject country.

<b>Duty Table</b>									
Sl. No	Tariff Code*	Description of Goods	Specification	Country of Origin	Country of Export	Producer	Exporter	Amount (in USD)	UOM
(1)	(2)	(3)	(4)	(5)	(6)	(7)		(9)	(10)
1)	70071900	Textured Toughened (Tempered) Coated and Uncoated Glass	**	China PR	China PR	Henan Ancai Hi Tech Co Ltd	Henan Ancai Hi Tech Co Ltd	64.04	MT
2)	70071900	-do-	**	China PR	China PR	Xinyi PV Products (Anhui) Holding Ltd.	Xinyi Solar (Hongkong) Limited	52.85	MT
3)	70071900	-do-	**	China PR	China PR	Dongguan CSG Solar Glass Co Ltd	Dongguan CSG Solar Glass Co Ltd	97.63	MT
4)	70071900	-do-	**	China PR	China PR	Wujiang CSG Glass Co Ltd	Wujiang CSG Glass Co Ltd	83.38	MT
5)	70071900	-do-	**	China PR	China PR	Anyone other than above S.No. 1 to 4	Anyone other than above S.No. 1 to 4	136.21	MT

6)	700719 00	-do-	**	China PR	Any country other than China PR	Any	Any	136.21	MT
7)	700719 00	-do-	**	Any country other than China PR	China PR	Any	Any	136.21	MT

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

\*\* Textured Toughened (Tempered) Glass with a minimum of 90.5% transmission having thickness not exceeding 4.2 mm (including tolerance of 0.2 mm) and where at least one dimension exceeds 1500 mm, whether coated or uncoated.”

87. Landed value of imports for the purpose of this Notification shall be the assessable value as determined by the Customs under the Customs Act, 1962 (52 of 1962) and includes all duties of customs except duties under sections 3, 3A, 8B, 9 and 9A of the said Act.

88. An appeal against the order of the Central Government arising out of this final finding shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act.

**(Dr. Inder Jit Singh)**  
Additional Secretary & Designated Authority