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F. No. 6/15/2019-DGTR
Government of India
Department of Commerce
Ministry of Commerce & Industry
Directorate General of Trade Remedies
4th Floor, Jeevan Tara Building, 5, Parliament Street, New Delhi – 110001

Dated: 20 August 2020

CASE No. (OI) -11/2019

Notification

Final findings

Subject: Anti-dumping investigation on the import of Clear Float Glass originating in or exported from Malaysia.

A. BACKGROUND

1. 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, as amended from time to time, (hereinafter also referred to as "the Rules") thereof:
2. M/s Asahi India Glass Ltd., M/s Gold Plus Glass Industry Ltd., M/s Saint-Gobain Glass India Ltd. and M/s Sisecam Flat Glass India Ltd. (hereinafter also referred to as "the Applicant" or "the Domestic Industry" or "the DI") had 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 "Clear Float Glass" (hereinafter also referred to as "subject goods") originating in or exported from Malaysia (hereinafter also referred to as the "subject country"). The exact description of the product under consideration (PUC) has been dealt with in the respective section of this final findings.
3. The Authority, on the basis of sufficient evidence submitted by the applicant, issued a Notification No. 6/15/2019-DGTR dated 23.08.2019, published in the Gazette of India, initiating the subject investigation in accordance with Rule 5 of the above Rules to determine existence, degree and effect of the alleged dumping of the subject goods, originating in or exported from Malaysia, and to recommend the amount of anti-dumping duty, which, if levied, would be adequate to remove the alleged injury to the domestic industry.

B. PROCEDURE

4. The procedure described herein below has been followed by the Authority with regard to the subject investigation:
 - i. The Authority, under the above Rules, received a written application from the Applicants on behalf of the Domestic Industry, alleging dumping of Clear Float Glass from Malaysia.
 - ii. The Authority notified the Government of Malaysia, through its High Commission 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 notification dated 23rd August, 2019 published in the Gazette of India Extraordinary, initiating anti-dumping investigation concerning imports of the subject goods from Malaysia.
 - iv. A copy of the public notice was forwarded by the Authority to all known exporters of the subject goods, the Government of the subject country through their High Commission in India, and other interested parties about the initiation of the subject investigation in accordance with Rule 6(2) of the Rules.
 - v. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters, and to the Government of Malaysia, through its High Commission and to other interested parties who made a request therefore in writing in accordance with Rule 6(3) of the Rules supra. A copy of the non-confidential version of the application was also made available in the public file and provided to other interested parties, wherever requested.
 - vi. The Authority forwarded a copy of the public notice initiating anti-dumping investigation to the known producers / exporters in the subject country, and other interested parties and provided them an opportunity to file response to questionnaire in the form and manner prescribed within time limit as prescribed in the initiation notification or extended time limit, and make their views known in writing in accordance with the Rule 6(4) of the Rules. The Authority sent Exporter's Questionnaire to the following known producers/exporters to elicit relevant information in accordance with Rule 6(4) of the Rules:
 - a. Kibing Group (M) Sdn. Bhd.
 - b. Xinyi Energy Smart (Malaysia) Sdn. Bhd.
 - c. Sipex Glass
 - vii. The Governments of Malaysia, through their High Commission in India was also requested to advise the exporters/producers from their country to respond to the questionnaire within the prescribed time limit. A copy of the letter and questionnaire sent to the known producers/exporters was also sent to the High Commission along with the names and addresses of the known producers/ exporters from the subject country.
 - viii. In response to the notification, following producers/exporters responded by filing Exporter's Questionnaire responses.

- a. Kibing Group (M) Sdn. Bhd. (Producer / Exporter)
- b. Xinyi Energy Smart (Malaysia) Sdn. Bhd. (Producer / Exporter)

ix. The Authority forwarded a copy of the public notice initiating anti-dumping investigation along with Importer's Questionnaire 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):

- a. Atlantic Trading – Mumbai
- b. Kanch Ghar – Mumbai
- c. Fishfa Glass – Mumbai
- d. Samarth Industries – Mumbai
- e. Prashanth Trading – Mumbai
- f. Asmi Traders – Mumbai
- g. Rajat Glass Traders – Karad
- h. Chandan Glass Traders – Pune
- i. Kochhar Glass Traders – Bhopal
- j. Ganeriwala Brothers Pvt Ltd – Kolkata
- k. Sure Safe Group/ Ganeriwala Glass Traders- Kolkata
- l. M S Glass Traders- Kolkata
- m. Glaze Architecture Pvt Ltd. - Kolkata
- n. Glaze Infrastructure P Ltd.- Kolkata
- o. Saraf Glass P Ltd. - Kolkata
- p. GSC - Noida
- q. Shiv Shakti - Roorkee
- r. Ridhi Sidhi - Jaipur
- s. Banaras Glass - Lucknow
- t. T. L. Verma - Chandigarh
- u. Jagdamba Glass - Delhi
- v. Sheesh Mahal Tuff - Rohtak
- w. Nutan Glass Hs(P) Ltd. - Bangalore
- x. Mahaveer Glass Hs - Bangalore
- y. Karnataka Metal Company - Bangalore
- z. Impact Safety Glass (P) Ltd - Bangalore
- aa. Southern Auto Products (P) Ltd. - Bangalore
- bb. Tough Glass India- Bangalore
- cc. Yesho Float Glass (P) Ltd. - Hyderabad
- dd. Bhandari Glass Co. - Hyderabad
- ee. Prakash Glass - Hyderabad
- ff. Mahaveer Glass - Chennai
- gg. Mahaveer Mirror - Vishakhapatnam
- hh. Uma Industries – Bangalore
- ii. Jai Mirror Industries – Chennai

x. The Authority sent Importer's Questionnaire to the following known Association of subject goods in India for circulation & calling necessary information in accordance with Rule 6(4) of the Rules:

- a. All India Flat Glass Manufacturers Association (AIFGMA)
- b. ASSOCHAM

- c. FICCI
- d. CII

xi. In response to the above, following importers/users have filed their submissions/representations in the above matter.

- a. Bagrecha Enterprises Limited
- b. CVS Infrastructure Private Limited
- c. Float Glass Centre
- d. Global Glass
- e. Golden Glass Traders

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

xiii. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) and from DG-Systems, Central Board of Indirect Taxes and Customs (CBIC) to provide the transaction-wise details of imports of subject goods for the injury period. The exporters, during the discussions, submitted that they have exported float glass of various thicknesses under a particular invoice. However, the DGCI&S data has reported entire such quantity of that invoice under only one thickness head. This has impacted the CIF prices of their exports to India. After analysis of DG Systems data and exporters' questionnaire response, credence was found in the request of the exporters. In view thereof, after due examination of the transactions and required analysis, DG Systems data has been relied upon for computation of the volume and value of imports to correlate quantum of exports from specified exporters and validate responses filed, to the extent feasible.

xiv. The Non-injurious Price (NIP) based on the optimum cost of production and cost to make & 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 Rules has been worked out so as to ascertain whether Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to the Domestic Industry.

xv. The period of investigation (POI) for the purpose of present investigation is from 1st April 2018 to 31st March 2019 (12 months). However, the injury investigation period covers the data of previous three years, i.e. April 2015 to March 2016, April 2016 to March 2017, April 2017 to March 2018 and POI.

xvi. The submissions made by the interested parties during the course of this investigation, to the extent supported with evidence and considered relevant to the present investigation, have been appropriately considered in these final findings.

xvii. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the confidentiality claims have been accepted wherever warranted and such information has been considered as confidential and not disclosed to 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.

- xviii. In accordance with Rule 6(6) of the Rules, the Authority also provided opportunity to all interested parties to present their views orally in a hearing held on 08.01.2020. Subsequently, another oral hearing was held on 15.07.2020 in view of the change of the Designated Authority, as per the judgment of the Hon'ble Supreme Court in the matter of Automotive Tyre Manufacturers' Association (ATMA) vs. Designated Authority, in Civil Appeal No. 949 of 2006 on 07.01.2011. All the parties who attended and presented their views in the oral hearings were requested to file written submissions of their views expressed orally. The parties were also advised to collect written submissions made by the opposing parties and were provided an opportunity to submit their rejoinders thereafter. The submissions made by the interested parties during the course of this investigation, wherever found relevant, have been addressed in these final findings.
- xix. In accordance with Rule 16 of the Rules Supra, the essential facts of the investigation were disclosed to the known interested parties vide disclosure statement dated 28.7.2020, sufficient time to all interested parties was granted to enable them to provide comments on the disclosure statement. Comments received thereon, considered relevant by the Authority, have been addressed in these final findings. The post-disclosure submissions, to the extent considered relevant, are being examined in these Final Findings
- xx. 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, such parties have been considered as non-cooperative and final findings has been recorded on the basis of the facts available.
- xxi. ‘***’ in these final findings represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
- xxii. The exchange rate adopted for the subject investigation is US\$1 = ₹70.85.

C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

- 5. The product under consideration (PUC) for the purpose of present investigation was defined as “Clear Float Glass of nominal thicknesses ranging from 4mm to 12mm (both inclusive)”, the nominal thickness being as per BIS 14900:2000, originating in or exported from Malaysia.
- 6. Clear Float Glass is used in construction, refrigeration, mirror, solar energy industries etc. The product is a superior quality of glass. Due to its inherent strength, high optical clarity, distortion free smooth surface etc., the applications of the product have been increasing for different purposes.
- 7. Float Glass is classified under Chapter Heading 70 “Glass and glassware”. However, the subject goods are also being imported under tariff sub-headings 7003, 7004, 7005, 7009, 7013, 7015, 7016, 7018, 7019 and 7020. However, the customs classification is indicative only and in no way binding on the scope of this investigation.

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

8. No submission has been made by the producers/exporters with regard to the scope of the product under consideration and like article.

Views of the Domestic Industry

9. The product under consideration (PUC) for the purpose of present investigation is “Clear Float Glass of nominal thicknesses ranging from 4mm to 12mm (both inclusive)”, the nominal thickness being as per BIS14900:2000.
10. Clear Float Glass is used in construction, refrigeration, mirror and solar energy industries etc. The product is a superior quality of glass. Due to its inherent strength, high optical clarity, distortion free smooth surface etc., the applications of the product have been increasing for different purposes.
11. Float Glass is classified under Chapter Heading 70 “Glass and glassware”. However, the subject goods are also being imported under tariff headings 7003, 7004, 7005, 7009, 7013, 7015, 7016, 7018, 7019 and 7020. It is also submitted that the custom classification is indicative only and in no way binding upon the product scope of the Customs Tariff Act, 1975.
12. There is no known difference in the subject goods produced by the domestic industry and that imported from Malaysia. 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. The applicants have claimed that the subject goods, which are being dumped into India, are identical to the goods produced by the domestic industry. There are no differences either in the technical specifications, quality, functions or end-uses of the dumped imports and the domestically produced subject goods and the product under consideration manufactured by the applicants. The two are technically and commercially substitutable and hence should be treated as ‘like article’ under the Rules.

Examination of the Authority

13. The product under consideration for the purpose of present investigation is “Clear Float Glass of nominal thicknesses ranging from 4mm to 12mm (both inclusive)”, the nominal thickness being as per BIS14900:2000 (hereinafter referred to as the “subject goods”).
14. Clear Float Glass is used in construction, refrigeration, mirror and solar energy industries etc. The product is a superior quality of glass. Due to its inherent strength, high optical clarity, distortion free smooth surface, etc., the applications of the product have been increasing for different purposes and classified under Chapter Heading 70 “Glass and glassware”. The classification at the 8-digit level is 70051090 even though the same are being classified and imported under various sub-headings like 7003, 7004, 7005, 7009, 7013, 7015, 7016, 7018, 7019 and 7020 etc. The custom classification is indicative only and in no way binding upon the product scope of the Customs Tariff Act, 1975.
15. 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."

16. It is noted that there is no known difference in the subject goods produced by the Indian industry, and product under consideration exported from Malaysia. Subject goods produced by the Indian industry and imported from Malaysia are comparable in terms of characteristics such as physical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The subject goods produced by the domestic industry are like article to the product under consideration imported from Malaysia within the scope and meaning of Rule 2(d) of anti-dumping Rules.
17. No other argument has been made by any interested party on the product under consideration and like article issue. Therefore, it is confirmed that the scope of the product under consideration in the present investigation remains the same as mentioned in the initiation notification.

D. DOMESTIC INDUSTRY AND STANDING

18. The current application has been filed by M/s Gold Plus Glass Industry Ltd., M/s Asahi India Glass Ltd., M/s Saint-Gobain Glass India Ltd. and M/s Sisecam Flat Glass India Ltd., who collectively command 85% share in Indian production of the subject goods during the period of investigation. As per the information available with the Authority there is only one other known producers of the product under consideration in the country i.e., M/s Gujarat Guardian Ltd. It is also noted that the said company has neither supported nor opposed to the present investigation.
19. As per the available information, the Applicants have neither imported the subject goods from Malaysia nor are they related to any other producer/exporter of subject goods in Malaysia or any importer in India. Further, the Applicants account for a major proportion in Indian production of the subject goods.
20. In view of the above, and since none of the interested parties has made any submissions in relation standing of the Domestic Industry, the Authority the Applicants constitute domestic industry within the meaning of Rule 2(b) of the Rules and considers that the application satisfied the criteria of standing in terms of Rule 5(3) of the Rules.

E. CONFIDENTIALITY

Submissions made by exporters/importers and other interested parties

21. The exporters/importers and other interested parties have claimed that the responses filed by them are as per the Trade notice. It is further claimed that they have filed the exact replica of the confidential version in the non-confidential version. Therefore, allegation of the Domestic Industry that they have not filed the proper non-confidential version is incorrect.

22. The application suffers from excessive confidentiality as Domestic Industry has claimed all the costing formats as confidential.

Submissions made by the domestic industry

23. Various submissions made by the domestic industry with regard to confidentiality claims of the exporters/importers and other interested parties are as follows:

- i. Excessive confidentiality has been claimed by the exporters in as much as the non-confidential versions of the questionnaire response were not the exact replica of the confidential version filed by the exporters as required under the Rules and the instructions on the issue.
- ii. Exporters / importers have even claimed confidentiality on the narrative portion of their response, which has made impossible for the Domestic Industry to defend their legitimate interest or to assist the Authority in the best possible manner.
- iii. As far as their submissions of Applicants are concerned, confidentiality has been claimed in accordance with the provisions of Rule 7 of the Anti-dumping Rules and the Trade Notices issued in this regard. Therefore, the claims of interested parties that the Applicants have claimed excessive confidentiality, are baseless.

Examination by the Authority

24. 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.”

25. Non-confidential version of the submissions by various interested parties were made available to the all other interested parties through inspection of the Public file maintained by the Authority for the same and also through circulation via e-mail for their comments and record.

26. As regards the contentions with regard to confidentiality of information, it is noted that 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 were directed to provide sufficient non confidential version of the information filed on confidential basis. The Authority made available the non-confidential version of the evidence submitted by various interested parties in the form of public file. The information related to imports, performance parameters and injury parameters of domestic industry has been made available in the public file. Business sensitive information has been kept confidential as per practice. The Authority notes that any information which is available in the public domain cannot be treated as confidential.

F. NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN

Normal Value

Submissions by the other Interested Parties

27. The following submissions have been made by other interested parties:

- i. The application does not contain adequate evidence of dumping to justify the initiation of the investigation.
- ii. Estimates made by the Domestic Industry regarding normal value cannot be accepted, as the same has been claimed as confidential in the petition.
- iii. The Domestic Industry had exaggerated the deductions in the export price and same should not be used for the any calculations whatsoever.
- iv. Xinyi Glass (India) Limited, a company registered in Hong Kong under Business Registration Ordinance (Chapter 310) and Business Registration Regulations have applied for opening of Liaison Office in India with the Reserve Bank of India. However, for getting approval from RBI, they needed to indicate an address in India. Thus, for the approval of the same they have established the temporary office address in India, which is indicated on the website of the Company provided as an evidence by the Domestic Industry. Moreover, Xinyi Glass (India) Limited had not been directly involved in the process of export to India.
- v. Xinyi Glass Holdings is not doing any activity on behalf of Xinyi Energy Smart and therefore, it is requested that no adjustment should be made in the export price on account of GS&A incurred by Xinyi Glass Holdings.
- vi. Kibing has not obtained any interest free loans or bank guarantees from any holding company, as alleged by the Domestic Industry.
- vii. Kibing also clarified that there is only one related company in Malaysia, namely, CS Eco Glass (M), which is a local customer/further processor to Kibing Group (M), who purchased PUC from Kibing Group (M) for the further production of energy-saving glass. Thus, CS Eco Glass (M) is not involved in the production/sale of PUC and therefore, it is not required to file questionnaire response separately.

Submissions by the Domestic Industry

28. The following submissions have been made by domestic industry:

- i. The Domestic Industry has proposed normal value in Malaysia on the basis of best information available with them for the purpose of the initiation.
- ii. The Domestic Industry has relied upon import data procured from DGCI&S for computing export price for Malaysia. Further, the data pertaining to adjustments claimed in the export price i.e., ocean freight, marine insurance, commission, inland freight expenses, port expenses and bank charges to arrive at ex-factory export price are fully supported by backup documents and same have been appropriately disclosed to the other interested parties.
- iii. The questionnaire responses filed by producers/exporters are grossly deficient and not filed in terms of the latest trade notice and therefore, needs to be rejected.
- iv. Domestic Industry has also requested the Authority to scrutinize the data of importers to find the real landed value of the subject goods, as it believes that exporters from Malaysia are giving post sales discounts.
- v. Domestic Industry has also requested the Authority to scrutinize the data submitted by the exporters as substantial transactions are done with related parties. They have further submitted that interest free loan, bank guarantee given by related party and interest on tax rebate received by the exporter should be appropriately adjusted in the cost.
- vi. It has been further submitted by the Domestic Industry that owing to the fact that exporters from Malaysia do not have to pay tax for 10 years, their transactions through related party cannot be accepted at their face value, as the same are not taking place at market value.
- vii. The Domestic industry has requested to call for imports data from Directorate General of Systems & Data Management (DG systems) to cross-check the responses made by exporters and importers. Domestic industry has also requested to reject the responses of the exporter, if the data filed by producers / exporters does not match the data received from Directorate General of Commercial Intelligence and Statistics (DGCI&S).
- viii. Domestic Industry has contested that no submission on behalf of Kibing Group can be taken on record, as their related party has not filed the complete response, despite specific requirement of the Authority. Since this has direct bearing on the computation of normal value, Domestic Industry has requested the Authority to outrightly reject the response filed by Kibing.
- ix. Domestic Industry has submitted that response of M/s Xinyi Energy Smart (Malaysia) Sdn. Bhd. cannot be accepted as they have withheld the information with the Authority about their Indian operations and after sales service provided by them to Indian customers. It is further submitted that their Indian representative has even attended the oral hearing. Since this also has the direct impact on the export price and dumping

margin, Domestic Industry requested the Authority to kindly reject the exporters' questionnaire response filed by them.

- x. That the Authority should make adjustment in the export price to the extent of expenses incurred by Xinyi Glass Holdings for handling Indian operations of Xinyi Smart.

Examination by the Authority

29. Under Section 9A(1)(c), normal value in relation to the 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 transhipped 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.

30. As regards the issue to adjustment in export price of Xinyi Smart, due to existence of their related party of in India, the exporter has submitted that Xinyi Glass (India) Limited, a company registered in Hong Kong, is in the process of establishing office in India. Currently, they have temporary office address in India, which is indicated on the website of the Company. It was further clarified that Xinyi Glass (India) is not involved in the process of export to India.

31. As regards the submission of the Domestic Industry that Xinyi has withheld the information about their Indian operations and services offered by them Xinyi has clarified that they have only applied for the office in India and relevant documents were reproduced to support their claim.

32. As regards the issue of adjustment in cost and normal value on account interest free loans, the Authority notes that the same have been appropriately adjusted while computing normal value. As regards the submissions of the Domestic Industry that the exporters are purchasing the raw material from their related parties, it is noted that the Domestic Industry has not provided any evidence to prove that the input prices and machinery price

from related parties are not at fair price. Moreover, while analyzing the data submitted by the exporters, the Authority has also not found any inconsistency in the prices of the inputs from the related party. In view thereof, the concerns of the Domestic Industry relating to transfer pricing are adequately taken care of.

M/s Kibing Group (M) Sdn. Bhd., Malaysia

Normal Value for M/s Kibing Group (M) Sdn. Bhd., Malaysia

33. It is noted from the response that M/s Kibing Group (M) Sdn. Bhd., Malaysia, during the POI, has sold *** MT of the subject goods having invoice value *** MYR to unrelated customers in the domestic market. They have also submitted that they have sold *** MT in the domestic market to their related parties, which was captively used by the related party. Based on their response, it is noted that their domestic sales are in sufficient quantity in the domestic market. To determine the normal value, the Authority conducted the ordinary course of trade test to determine profit making domestic sales transactions with reference to cost of production of subject goods. In case profit making transactions are more than 80% then the Authority has considered all the transactions in the domestic market for the determination of the normal value. Where profitable transactions are less than 80%, only profitable domestic sales are taken into consideration for the determination of normal value. Based on the ordinary course of trade test, only profitable domestic sales have been taken for determination of normal value, since the profitable sales were less than 80%.
34. M/s Kibing Group (M) Sdn. Bhd., Malaysia, has claimed adjustments on account of inland transportation, insurance and ocean and local charges, which have been considered. Accordingly, weighted average normal value for M/s Kibing Group (M) Sdn. Bhd., Malaysia has been determined, and the same is mentioned in dumping margin table.

Export Price for M/s Kibing Group (M) Sdn. Bhd., Malaysia

35. M/s Kibing Group (M) Sdn. Bhd., Malaysia, has exported directly *** MT of the subject goods having invoice value *** MYR to Indian buyers. The producer/exporter has claimed adjustments on account of customs clearance & inland haulage, ocean freight & local charges, insurance and bank charges. The net export price after these adjustments is given in the dumping margin table.

M/s Xinyi Energy Smart (Malaysia) Sdn. Bhd., Malaysia

Normal Value for M/s Xinyi Energy Smart (Malaysia) Sdn. Bhd., Malaysia

36. It is noted from the response that M/s Xinyi Energy Smart (Malaysia) Sdn. Bhd., Malaysia, during the POI, has sold *** MT of the subject goods having invoice value *** MYR to unrelated customers in the domestic market. It is noted that their domestic sales are in sufficient quantity in the domestic market. Xinyi Energy has provided transaction wise details of sales made in home market in its Questionnaire Response. Detailed examination of the response was carried out on desk study basis. To determine the normal value, the Authority conducted the ordinary course of trade test to determine profit making domestic sales transactions with reference to cost of production of subject goods.

37. It has been claimed by the domestic industry that the exporter has obtained interest free loans from their group company. Further, it has procured of raw material/plant and machinery from a related company and natural gas in Malaysia at subsidized prices. The Authority noted that as per Audit Report for the year 2018, the company has obtained interest free loan of *** MYR from its holding company, namely Xinyi International Investments Limited, Hong Kong. This company has claimed that this loan has been obtained by the Holding Company from Bank of China (Hong Kong) Limited for investing in Xinyi Energy Smart (Malaysia) Sdn. Bhd., Malaysia at an Interest Rate of HIBOR+***% p.a. In support of the same copy of the agreement between Bank of China (HK) and Xinyi International Investments Limited, Hong Kong have been provided. The Authority has notionally worked out the incidence of interest to arrive at ex-factory cost at Xinyi Energy Smart based on the prevailing long term loans in Malaysia during the period of investigation. As regards the submissions of the Domestic Industry that the exporters are purchasing the raw material from their related parties, it is noted that the no evidence has been placed on record to prove that the input prices and machinery price from related parties are not at fair price. Moreover, while analyzing the data submitted by the exporters, the Authority has also not found any inconsistency in the prices of the inputs from the related party. In view thereof, the concerns of the Domestic Industry on this issue are adequately taken care off. With regards to natural gas prices in Malaysia it is observed that allegation of an actionable specific subsidy is being examined separately by the Authority in anti-subsidy investigation. The Authority further notes that in an AD investigation, various input cost elements have been considered for computation of the cost of production of producer/exporter as per the accounting principles, and books of accounts maintained by the producer/exporter in accordance with relevant Rules.

38. The cost so arrived has been considered for applying ordinary course of trade test. In case profit making transactions are more than 80% then the Authority has considered all the transactions in the domestic market for the determination of the normal value. Where profitable transactions are less than 80%, only profitable domestic sales are taken into consideration for the determination of normal value. Based on the ordinary course of trade test, only profit-making domestic sales have been taken for determination of normal value, since the profitable sales were found to be less than 80%.

39. M/s Xinyi Energy Smart (Malaysia) Sdn. Bhd., Malaysia, has claimed adjustments on account of ocean freight, insurance, inland transportation, credit and rebate. Accordingly, weighted average normal value for M/s Xinyi Energy Smart (Malaysia) Sdn. Bhd., Malaysia, has been determined, and the same is mentioned in dumping margin table.

Export Price for M/s Xinyi Energy Smart (Malaysia) Sdn. Bhd., Malaysia

40. M/s Xinyi Energy Smart (Malaysia) Sdn. Bhd., Malaysia, has exported directly *** MT of the subject goods having invoice value *** MYR to Indian buyers. The producer/exporter has claimed adjustments on account of ocean freight, insurance, inland transportation, credit cost, bank charges. The Authority has not considered this adjustment while arriving at ex-factory domestic sales. The Authority has analyzed the post disclosure comments and after analyzing the same, found that the Xinyi Glass (India) Ltd is indeed involved in the soliciting business enquiries, and marketing of their group company's products which include subject goods manufactured by Xinyi smart.

41. It is also noted that the exporter has not provided any evidence / information to enable the Authority to deduct relevant expenses of the Xinyi Glass India. In order to make appropriate adjustments the Authority has deducted *** % from the export price of Xinyi

Smart, based on selling and marketing costs only of the Xinyi Glass Holding Limited in accordance to the Rule 6(8). The net export price after these adjustments is given in the dumping margin table

Normal Value for Other Malaysian exporters

42. It is noted that no other producers/exporters from Malaysian exporter / producer have cooperated in the present sunset review investigation. In view of such non-cooperation, the Authority has determined Normal Value for such other producers/exporters based on facts available under rule 6(8) of the rules, and the same is mentioned in the dumping margin table.

Export Price for other Malaysian exporters

43. It is noted that no other producers/exporters from Malaysia has cooperated in the anti-dumping investigation. In view of such non-cooperation, the Authority has determined export price for such other producers/exporters based on facts available under rule 6(8) of the rules, and the same is mentioned in the dumping margin table.

Dumping Margin

44. Considering the normal values and export prices for the subject goods as above, the dumping margin for the subject goods has been determined as follows. It is seen that the dumping margin for the subject goods is more than *de-minimis* and significant.

Dumping Margin Table

Country	Producer	Normal Value/ CNV (US\$/MT)	Export Price (US\$/MT)	Dumping Margin US\$/MT	Dumping Margin %	Dumping Margin Range
Malaysia	Kibing Group (M) Sdn. Bhd	***	***	***	***	0-10
	Xinyi Energy Smart (Malaysia) Sdn. Bhd.	***	***	***	***	0-10
	Others	***	***	***	***	50-60

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

Submissions made by the Domestic Industry

45. 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. Domestic Industry has requested to issue preliminary findings in the instant investigation, as they are continuing to suffer injury during the interim period.
- ii. Domestic industry has submitted that it is currently going through a deep crisis due to the prolonged lockdown in India. They have further submitted that Float glass production is a continuous process, and therefore, the Domestic Industry has no choice but to continuously produce the subject goods despite poor off-take in the market. According to the Domestic Industry, Xinyi and Kibing continue to export the subject goods in export markets including India and once the current Covid-19 crisis gets over, India will become the hot destination for exports of the subject goods from Malaysia particularly in view of the fact that their major markets including the European Union have been severely affected by the Covid-19 crisis. Contention of the Domestic Industry is based on the market information provided by it according to which imports in February 2020 (13622 MT) increased by around 85% (6264MT) as compared to January 2020 (7358 MT) imports from Malaysia
- iii. Imports of the product under consideration from Malaysia have shown massive increase in the POI as compared to previous year, which has caused injury to the Domestic Industry.
- iv. Market share of Malaysia in demand has become significant in POI. Imports from Malaysia have not only taken the share of Domestic Industry but also of other countries in a short span of time. Market share of the Domestic Industry has decreased in the POI as compared to the base year.
- v. 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. Hence the market share reduced during the entire injury investigation period.
- vi. Domestic industry prices reflect the effect of the prices that are being offered by the exporters in the domestic market. The Domestic Industry has also firmly contended that exporters are giving post sales discount to Indian customers to make their offers more attractive to them. Domestic Industry has requested to insist upon the importer to provide factual information about their contracts with their foreign suppliers and also with their customers along with the payment receipts to ascertain the actual import price.
- vii. 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.
- viii. Performance of the domestic industry has steeply deteriorated in terms of profits. In fact, the profitable situation of the Domestic Industry has turned into losses and return

on investments and cash profits have also followed the same trend.

- ix. The decline in profitability of the domestic industry was due to significant increase in the import volume at non-remunerative prices from Malaysia.
- x. 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.
- xi. The domestic industry has suffered material injury in connection with dumping of subject goods from Malaysia. Further, the domestic industry is threatened with continued injury, should the present condition continues.

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

- 46. The following are the injury related submissions made by the producers/exporters/importers/other interested parties during the course of the present investigation and considered relevant by the Authority.
 - i. There is no volume effect, as the market share of the Domestic Industry has increased in the POI as compared to previous year.
 - ii. Domestic Industry has increased its capacity during the POI and this increased capacity, has resulted into higher capital employed, negative return on capital employed, and huge losses.
 - iii. The Domestic Industry is not suffering any injury, as their balance sheet is showing significant profits. Moreover, no injury can be attributed to the imports from Malaysia.
 - iv. Interested parties requested the Authority to critically examine the injury parameters and other factors causing injury to the Domestic Industry.

Examination by the Authority

- 47. The Authority has taken note of the arguments and counterarguments of the 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.
- 48. As regards the profitability of the company, it is noted that the Applicants are multi-product company and to compare profitability of the company with profitability of the product under consideration is incorrect. . Further, the Authority is required to examine the performance of the Domestic Industry with respect to domestic like product and not for the company as a whole. The Authority has, therefore, analyzed the data accordingly. Therefore, the contention of the interested parties based on total profitability of the company is not correct.
- 49. As regards the issues of analysis of the injury parameters, it is noted that the same are addressed in the subsequent paragraphs while making injury analysis.
- 50. As regards the issue of capacity expansion, it is noted that the Domestic Industry has increased its capacity to cater the increased demand in the country. However, the sudden

increase in POI is because of the fact that one of the constituents of the Domestic Industry started its operations during the injury investigation period (December 2017). In view thereof, the contention of the interested parties in relation to sudden increase in capacity is appropriately analyzed and taken care during the injury analysis. Therefore, no prejudice is caused to any interested parties.

51. Rule 11 read with Annexure-II of the Rules 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 necessary to examine whether there has been a significant price undercutting by the dumped imports as compared to the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. For the examination of the impact of the dumped imports on the domestic industry in India, indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, stock, profitability, net sales realization, the magnitude and margin of dumping, etc. have been considered in accordance with Annexure-II of the Rules. The Authority has taken note of various submissions of the domestic industry and the exporters / importers / traders / users on injury to the domestic industry and has analyzed the same considering the facts available on record and applicable laws. The injury analysis made by the Authority hereunder ipso facto addresses the various submissions made by the interested parties.

Volume Effect of Dumped Imports and impact on the Domestic Industry

i. **Assessment of Demand**

52. For the purpose of the present investigation, demand or apparent consumption of the subject goods has been defined as the sum of domestic sales of the Applicants and imports from all sources. The demand so assessed is given in the table below:

Particulars	UoM	2015-16	2016-17	2017-18	POI
Imports from Malaysia	MT			1,29,794	1,92,379
Imports from Other Countries attracting ADD	MT	1,22,768	1,54,210	75,604	33,263
Imports from Other Countries	MT	24,071	62,776	56,517	10,628
Total Imports	MT	1,46,839	2,16,986	2,61,915	2,36,270
Sales of Domestic Industry	MT	7,99,041	8,15,669	8,75,931	10,13,390
Trend	Indexed	100	102	110	127
Sales of Other Domestic Producers	MT	1,43,650	1,44,500	1,90,000	2,30,000
Trend	Indexed	100	101	132	160
Total Domestic Sales	MT	9,42,691	9,60,169	10,65,931	12,43,390
Trend	Indexed	100	102	113	132
Demand	MT	10,89,530	11,77,155	13,27,845	14,79,660
Trend	Indexed	100	108	122	136

53. From the above, it is noted that the demand of the subject goods has been on the increasing trend throughout the injury investigation period.

ii. **Imports volume and share of the imports from Malaysia**

54. With regard to the volume of 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. The volume of imports of the subject goods from Malaysia has been analyzed as under:

Particulars	UoM	2015-16	2016-17	2017-18	POI
Imports from Malaysia	MT	-	-	1,29,794	1,92,379
Imports from Other Countries	MT	1,46,839	2,16,986	1,32,121	43,891
Total Imports	MT	1,46,839	2,16,986	2,61,915	2,36,270
Total PUC Production	MT	11,87,674	11,86,379	12,96,914	17,05,946
Demand of Subject goods in India	MT	10,89,530	11,77,155	13,27,845	14,79,660
Imports from Malaysia in relation to					
Production	%			10.01%	11.28%
Trend	Indexed			100	113
Consumption	%			9.77%	13.00%
Trend	Indexed			100	133
Total Imports	%			49.56%	81.42%
Trend	Indexed			100	164

55. From the above table, it is noted that-

- Imports of subject goods from Malaysia have increased significantly during the injury period in absolute terms.
- The imports from Malaysia have increased significantly in relation to total imports and consumption in India.

iii. **Price Effect of Dumped Imports on the Domestic Industry**

56. 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 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 the subject country has been examined with reference to the price undercutting, 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 Malaysia.

a. Price Undercutting

57. 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 as below:

Particulars	UoM	2015-16	2016-17	2017-18	POI
Landed price from Subject Country	Rs/MT			17,980	18,124
Net selling price of Domestic Industry	Rs/MT			22,755	21,206
Price undercutting	Rs/MT			4,775	3,082
Price undercutting	%			27%	17%
Price undercutting	Range			20-30	10-20

58. It is noted that the landed value from Malaysia is below the selling price of the Domestic Industry during the POI and immediately preceding years. This has created huge pressure on the Domestic Industry.

b. Price Suppression and Depression

59. In order to determine whether the imports from Malaysia 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 Authority has considered the changes in the costs and prices over the injury period, as detailed below:

Particulars	UoM	2015-16	2016-17	2017-18	POI
Cost of Sales	Rs/MT	***	***	***	***
Trend	Indexed	100	97	91	96
Selling Price	Rs/MT	24,246	24,001	22,755	21,206
Trend	Indexed	100	99	94	87
Landed Value from Malaysia	Rs/MT	0	0	17,980	18,124
Trend	Indexed	0	0	100	101

60. From the above table, it is noted that the landed value of imports from Malaysia was below the selling price and cost of sales of the Domestic Industry in the POI and immediately preceding years. This has depressed the prices of the Domestic Industry to a significant degree. It is also noted that both the selling price as well as cost of sales of subject goods have declined during the injury period. However, the decline in the selling price is much more than decline in the cost of production, indicating that the domestic industry has also suffered price suppression.

c. Price Underselling

61. The Authority has also examined price underselling if any, suffered by the domestic industry on account of dumped imports from Malaysia. After examination, it is determined that the domestic industry has suffered price underselling during the POI.

Particulars	Unit	Malaysia
Non-Injurious Price (NIP)	Rs/MT	***
Landed price of imports from subject country	Rs/MT	18,124
Price underselling	Rs/MT	***
Price underselling	%	***
Price underselling	Range	30-40

iv. Economic Parameters of the Domestic Industry

62. Annexure-II to the Rules requires that the determination of injury shall involve an objective examination of the consequent impact of dumped imports on domestic producers of such products. With regard to consequent impact of dumped imports on domestic producers of such products, the Rules further provide that the examination of the impact of the dumped imports on the domestic industry should include an objective and unbiased evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output, market share, productivity, return on 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. The various injury parameters relating to the domestic industry are discussed herein below

v. Sales Volume and Value

63. The sales volume and value of the Domestic Industry is given in the table below:

Particulars	UoM	2015-16	2016-17	2017-18	POI
Sales Quantity	MT	7,99,041	8,15,669	8,75,931	10,13,390
Trend	Indexed	100	102	110	127
Sales Value	Rs. Lacs	1,93,734	1,95,771	1,99,322	2,14,898
Trend	Indexed	100	101	103	111
Sales Price	Rs. /MT	24,246	24,001	22,755	21,206
Trend	Indexed	100	99	94	87

64. It is noted from the above table, that the sales volume and value of the subject goods have increased during the POI as compared to the preceding years. However, during the same time the selling price of the subject goods decreased. Domestic Industry has submitted that in order to retain the customers, they had no option but to reduce the selling price of the subject goods.

vi. Production and Capacity Utilization:

65. The details of production and capacity utilization are given in the table below:

Particulars	UoM	2015-16	2016-17	2017-18	POI
Capacity	MT	14,11,700	14,08,900	14,99,264	19,95,360
Total Production	MT	11,87,674	11,86,379	12,96,914	17,05,946
Production PUC only	MT	8,93,924	9,10,076	10,17,204	12,61,606
Capacity Utilization (Total Production)	%	84.13%	84.21%	86.50%	85.50%

66. It is noted from above table that the Domestic Industry have sufficient capacity to cater the need of the domestic demand. It is further noted that the capacity utilization has declined marginally during the POI as compared to previous year.

vii. **Market share:**

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

Particulars	UoM	2015-16	2016-17	2017-18	POI
Imports from Malaysia	MT			1,29,794	1,92,379
Imports from Other Countries attracting ADD	MT	1,22,768	1,54,210	75,604	33,263
Imports from Other Countries	MT	24,071	62,776	56,517	10,628
Total Imports	MT	1,46,839	2,16,986	2,61,915	2,36,270
Sales of Domestic Industry	MT	7,99,041	8,15,669	8,75,931	10,13,390
Trend	Indexed	100	102	110	127
Sales of Other Domestic Producers	MT	1,43,650	1,44,500	1,90,000	2,30,000
Trend	Indexed	100	101	132	160
Total Domestic Sales	MT	9,42,691	9,60,169	10,65,931	12,43,390
Trend	Indexed	100	102	113	132
Demand	MT	10,89,530	11,77,155	13,27,845	14,79,660
Trend	Indexed	100	108	122	136
Share in Demand of					
Imports from Malaysia	%	0%	0%	10%	13%
Imports from Other Countries attracting ADD	%	11%	13%	6%	2%
Imports from Other Countries	%	2%	5%	4%	1%
Total Imports	%	13%	18%	20%	16%
Sales of Domestic Industry	%	73%	69%	66%	68%
Sales of Other Domestic Producers	%	13%	12%	14%	16%

Particulars	UoM	2015-16	2016-17	2017-18	POI
Total Domestic Sales share in Demand	%	87%	82%	80%	84%

68. From the above, it is noted that imports of the subject goods from Malaysia has increased in the POI as compared to the previous year. It is further noted that the market share of the Domestic Industry has decreased during the period of investigation over the base year despite increase in the demand over the same period.

viii. Productivity:

69. The productivity of the Domestic Industry is given in table below:

Particulars	UoM	2015-16	2016-17	2017-18	POI
Employees	Nos	2,722	2,847	3,671	3,812
Average no. of Working Days	Days	365	365	365	365
No. of Man Days	Man Days	9,93,530	10,39,155	13,39,915	13,91,380
Productivity	MT/man-days	0.90	0.88	0.76	0.91
Trend	Indexed	100	97	84	101

70. It is noted from the above table that the productivity in terms of total production per man-days has remained in the same band. However, the same has increased as compared to the preceding two years.

ix. Inventories:

71. The inventory of the subject goods is shown in the following table.

Particulars	UoM	2015-16	2016-17	2017-18	POI
Average Inventory	MT	51,113	59,186	94,046	1,40,794
Trend	Indexed	100	116	184	275

72. From the above table, it is noted that the inventory has increased substantially during the POI as compared to any of the previous year. This increased inventory indicates the injurious impact of imports from subject country.

x. Employment and Wages:

73. The position with regard to employment and wages is given in table below:

Particulars	UoM	2015-16	2016-17	2017-18	POI
Employees	Nos	2,722	2,847	3,671	3,812
Trend	Indexed	100	105	135	140
Wages	Rs. Lacs	9,108	10,228	12,057	14,153
Trend	Indexed	100	112	132	155
Wages/employee (Rs. per annum)	Rs/Nos	3,34,596	3,59,265	3,28,450	3,71,284
Trend	Indexed	100	107	98	111

74. It is noted from above table that the number of the employees and wages paid to them has increased during the POI. It is further noticed that the wages paid to the employees has increased, although such increase in wages paid has been commensurate to the increase in wages in the country in general.

xi. Profitability:

75. The Profits, return on investment and cash flow of the domestic industry has been examined as below:

Particulars	UoM	2015-16	2016-17	2017-18	POI
Selling Price	Rs./MT	24,246	24,001	22,755	21,206
Trend	Indexed	100	99	94	87
Cost of Sales Price	Rs./MT	****	****	****	****
Trend	Indexed	100	97	91	96
Profit & Loss	Rs. Lacs	15,927	20,250	21,109	-1,610
Trend	Indexed	100	127	133	-10
Profit & Loss	Rs./MT	1,993	2,483	2,410	-159
Trend	Indexed	100	125	121	-8
Cash Profit	Rs./MT	****	****	****	****
Trend	Indexed	100	114	104	34
Return on Capital Employed (ROCE)	%	****	****	****	****
Trend	Indexed	100	123	98	-7

76. As noted earlier that due to the dumped and low-priced imports, the performance of the domestic industry has been adversely affected in the period of investigation. This is essentially on account of the dumped imports from Malaysia coming at lower prices due to which the domestic industry has been forced to reduce its prices to match the low prices of imports. This price pressure on the Domestic Industry has adversely affected the profitability of the Domestic Industry which turned negative during the POI. The ROCE has also followed the same trend as of profitability.

xii. Growth

77. There was negative growth of the domestic industry in terms of sales price and market share in the POI. Similarly, profits, as well as ROI turned into negative from profitable situation. The Domestic industry has contended that they were not able to achieve the same due to the presence of the dumped imports from Malaysia.

Particulars (Year on year)	2015-16	2016-17	2017-18	POI
Selling Price		-1.01%	-5.19%	-6.81%
Profitability		25%	-3%	-107%
Return on investment		1.6%	-1.8%	-7.5%
Capacity utilization		0.1%	2.3%	-1.0%
Inventory		16%	59%	50%

xiii. **Magnitude of Dumping:**

78. Magnitude of dumping is an indicator of the extent to which the dumped imports can cause injury to the domestic industry. The data shows that the dumping margin determined against Malaysia is above *de minimis* and significant.

xiv. **Ability to raise Capital Investment:**

79. The Authority notes that the performance of the domestic industry has deteriorated considerably and dumping of the product under consideration may adversely impact the ability of the domestic industry to raise capital investment.

xv. **Factors affecting domestic prices**

80. Considering the import prices from Malaysia, change in the cost structure, competition in the domestic market, factors other than dumped imports that might be affecting the prices of the Domestic Industry in the domestic market show that the landed value of imported material from Malaysia is significantly below the selling price of the domestic industry, causing significant price undercutting in the Indian market. The domestic industry contended that benchmark for the domestic prices are the import prices from the subject country. It is also noted that the demand for the subject goods was showing increase during the injury period including the POI and therefore it could not have been a factor affecting domestic prices. Thus, it can be concluded that the principal factor affecting the domestic prices is the landed value of subject goods from subject country.

xvi. **Magnitude Injury Margin**

81. The Authority has determined Non-Injurious Price (NIP) for the domestic industry on the basis of principles laid down in the Rules read with Annexure-III to the Rules, as amended from time to time. The NIP of the domestic like product has been determined by adopting the verified information/data relating to the cost to make and sell for the period of investigation. The NIP of the domestic industry has been worked out in accordance with Annexure III to the Rules. For determining NIP, the best utilization of the raw materials by the domestic industry over the injury period has been considered. The same treatment has been done with the utilities. The best utilization of production capacity over the injury period has been considered. The production in POI has been calculated considering the best capacity utilization and the same production has been considered for arriving per unit fixed costs. It is ensured that no extraordinary or non-recurring expenses were charged to the cost of production. A reasonable return (pre-tax @ 22%) on average capital employed (i.e. Average Net Fixed Assets plus Average Working Capital) for the product under consideration was allowed for recovery of interest, corporate tax and profit to arrive at the NIP as prescribed in Annexure-III and being consistently followed by the Authority. The non-injurious price so determined has been compared with the landed prices of imports from the subject countries to determine the injury margin.

Country	Producer	Non-Injurious Price (US\$/MT)	Landed Value (US\$/MT)	Injury Margin US\$/MT	Injury Margin (%)	Injury Margin % (Range)
Malaysia	Kibing Group	***	***	***	***	30-40

(M) Sdn. Bhd					
Xinyi Energy Smart (Malaysia) Sdn. Bhd.	***	***	***	***	30-40
Others	***	***	***	***	60-70

Causal Link & Non Attribution Analysis

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

xvii. Volume and price of imports from third countries

83. The imports from the countries other than Malaysia and countries already attracting anti-dumping duties are not significant in volume terms so as to cause or threaten to cause injury to the Domestic Industry. Imports from other countries accounted for less than 5% in total imports and 1% of total demand/consumption in India. Thus, it cannot be said that imports from other countries are currently causing injury.

xviii. Export Performance

84. It is noted that the injury information examined by the Authority is for domestic operations and therefore possible changes in exports volume have not caused injury to the Domestic Industry.

xix. Development of Technology

85. None of the interested parties have furnished any evidence to demonstrate significant changes in the technology that could have caused injury to the domestic industry. It is further noted that technology for production of the product concerned has not undergone any change. Thus, development in technology is not a factor causing injury to the domestic industry.

xx. Performance of other products of the company

86. The Authority notes that the performance of other products being produced and sold by the Domestic Industry does not appear to be a possible cause of injury to the domestic industry.

Domestic producers

87. The import of the subject goods is not restricted in any manner and the same are freely importable in the country. No evidence has been submitted by any interested party to suggest that the conditions of competition between the foreign and the domestic producers have undergone any change.

xxii. Productivity of the Domestic Industry

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

xxiii. Contraction in Demand and Changes in pattern of consumption

89. It is noted that the demand of the subject goods has increased consistently over the entire injury period. Thus, it can be concluded that the injury to the Domestic industry was not due to contraction in demand.

H. POST-DISCLOSURE SUBMISSIONS

90. The post disclosure submissions have been received from the interested parties, and it is noted that the most of the issues raised are reiterations and have already been raised earlier and also addressed appropriately. Additional submissions have been analyzed as under:

Submission by the domestic industry

91. The domestic industry has reiterated the submissions that the Authority has accepted responses of the exporters without any information being filed by their related party including certificate indicating that they have used the subject goods captively.

92. It has also been submitted that the response of Kibing Group should also be rejected as they have failed to provide the complete information of their related party in Malaysia. They have further added that they have provided screenshots of Annual Report of holding company in Hong Kong to show that the transactions within related parties are at mutually agreed prices and not at arm's length.

93. The Domestic Industry in their post disclosure statement submissions has further submitted that Xinyi India is involved in the operations of marketing and sales of Xinyi Smart Malaysia being the same group company. It has been further submitted that the presence of their country representative, in the first oral hearing to monitor the overall proceedings relating to anti-dumping and anti-subsidy investigation and the fact that their regional representative, based in Mumbai as Territory Manager in Xinyi Glass Holdings Ltd., to focus on marketing and sales of Xinyi Smart product in the Indian market, shows the level of involvement in the operations relating to sales of the product under consideration in India. In view thereof, the Domestic Industry reiterated its request to reject the claim of individual dumping margin of Xinyi Group. They also requested that the export price of the exporter should be appropriately adjusted to the extent of the expenses incurred by Xinyi Glass Holdings Ltd.

94. The industry also submitted that the Malaysian exporters have already reduced their prices by about 30% making things worse for the Indian Domestic Industry. In other

words, the element of the likely anti-dumping duty has already been absorbed by them. Therefore, the Authority may recommend a “Reference Price” based duty so that the problem of absorption can be addressed effectively. They further stated that a reference price duty under the circumstances of this case would ensure that while protecting the Domestic Industry the honest importers are not required to pay any duty.

Submissions by producers/exporters/importers and other interested parties

95. Kibing Group has requested the Authority to rework its cost of production based on the data submitted by them. They have also requested to consider the sales made to related party in Appendix 4B in the dumping margin calculation.
96. Xinyi Smart has requested the Authority to adjust the interest cost based on the actual interest expenses incurred by the subsidiary company in Hong Kong based on the information already on record.
97. They have also requested the Authority to kindly allow quality adjustments in the domestic sales based on the document submitted.
98. It has been submitted that for opening up a Liaison Office local address in India with a local representative is required. To meet this requirement Xinyi Glass (India) Ltd., Hong Kong has appointed a country representative and hired a cabin of 110 sq. ft in Gurugram, Haryana to meet the requirement of local representative and local address. They also submitted Xinyi Glass (India) Limited, Hong Kong, has filed an application before RBI for approval to establish a Liaison Office in India, and the said application is still pending as the required approval from RBI has not been granted, and Xinyi Glass (India) Limited cannot start its operations till the approval from RBI is granted. It is further submitted that Xinyi Glass (India) Ltd. is not authorised to open any bank account in India without approval for establishment of Liaison Office from RBI, all its expenses including Rent for Office and salary to its only staff member is directly paid by the Group Company. In view of the above facts, it is submitted that there is no related company operational in India of Xinyi Energy Smart. Claim of the Domestic Industry with regard to Xinyi Glass (India) Ltd. is totally incorrect and needs to be rejected.
99. Both the exporters have requested the Authority to reject the submissions of the Domestic Industry relating to rejection of their (exporter's) responses.

Examination by the Authority

100. The Authority notes that most of the submissions by parties are repetitive in nature and have been examined and addressed in the disclosure statement and in the foregoing parts of the present findings. The findings above deal with all such arguments of the domestic industry and other interested parties. However, the Authority has examined these submissions herein below to the extent relevant and not addressed elsewhere.
101. With regard to the argument of the domestic industry that a related buyer of Kibing Group (M) Sdn. Bhd., Malaysia has not filed the Questionnaire Response and hence the response of Kibing Group (M) Sdn. Bhd., shall be rejected, it is noted that Kibing Group (M) Sdn. Bhd., has duly reported its sales to related party in Malaysia. The related party is an end user of the subject goods and is further processing and selling a different product made out of the subject goods. Further, it is further clarified that the Authority has not

considered sales of Kibing Group (M) Sdn. Bhd., to its related party for Normal Value computation as the same was found to be lower than the prices to unrelated customers.

102. With regard to the argument of the domestic industry about related party transaction at arm's length with regard to raw material, consumables & spares, it is noted that the Authority has examined the argument of domestic Industry with regard to purchase of certain raw materials and spares and stores from related parties in China PR by Xinyi Energy Smart (Malaysia) SDN BHD., Malaysia. During the course of desk verification it was clarified by the exporter that Xinyi International Trade (Tianjin) Co., Ltd., China PR has acted as a trading link between unrelated supplier of some stores & spares and Xinyi Energy Smart (Malaysia) Sdn. Bhd., Malaysia. It was submitted that the unrelated supplier does not have export license, hence, Xinyi International Trade (Tianjin) Co., Ltd. has supplied the goods to Xinyi Energy Smart (Malaysia) Sdn. Bhd. at the same price at which it was sourced from the unrelated supplier. In support of their claim, the company has provided copies of Agreement between Xinyi Energy Smart (Malaysia) Sdn. Bhd. and Xinyi International Trade (Tianjin) Co., Ltd. corresponding Invoice raised by Xinyi International Trade (Tianjin) Co., Ltd. to Xinyi Energy Smart (Malaysia) Sdn. Bhd., the Agreement between Xinyi International Trade (Tianjin) Co., Ltd. and unrelated supplier and corresponding Invoice raised by such unrelated supplier to Xinyi International Trade (Tianjin) Co., Ltd. on sample basis. Same has been duly considered by the Authority in arriving at its finding.
103. With regard to purchase of raw materials from related party, it was observed that the prices charged by related supplier were above the prices charged by unrelated suppliers and also the quantities were very low.
104. With regard to argument of domestic industry that Xinyi Energy Smart (Malaysia) SDN BHD is maintaining a liaison office in India, and export price of the exporter should be appropriately adjusted to the extent of the expenses incurred by Xinyi Glass Holdings Ltd, the Authority has examined the issue in the light of information already on record and post-disclosure comments received from all the parties where both the parties have submitted documents in support of their contention, and based on the information on record, and examination, the Authority has found credence in the submissions of the Domestic Industry that Xinyi glass (India) Ltd is indeed involved in the marketing and sales of the products of Xinyi Group. It was, therefore, incumbent upon the exporter to declare their operations and the set-up with full transparency. It is also noted that it was only after the Domestic Industry pointed out the presence of the representative of Xinyi Glass (India) Ltd in the oral hearing as well as the fact that they are involved in the marketing and sales to India that the exporter provided additional information to the Authority to the extent that they only have a temporary office in India. From the submission of the exporter, it is also noted that the Xinyi glass (India) Ltd, are working with temporary office. However, the Authority also notes that the exporter has not provided any evidence / information to enable the Authority to deduct relevant expenses of their working in India. It is noted that their India office is indeed engaged in soliciting enquiries and marketing on behalf of their parent company Xinyi Glass Holding Ltd for marketing of their group company's products which include subject goods manufactured by Xinyi smart.
105. In view of the above, it was considered appropriate to make appropriate adjustments by deducting ***% from the export price of Xinyi Smart, for determining net export price taking into account selling and marketing costs of the their parent company i.e Xinyi Glass Holding Limited in accordance to the Rule 6(8) of the Rules.

106. With regard to argument of the domestic industry that Xinyi Energy Smart (Malaysia) SDN BHD. and Kibing Group (M) Sdn. Bhd., have obtained interest free loans from related parties, it has been noted that Kibing Group (M) Sdn. Bhd., has not taken any interest free loans from any related party. However, it has been found that Xinyi Energy Smart (Malaysia) SDN BHD has obtained interest free loans from its principal shareholder. The Authority has appropriately adjusted the cost of production of Xinyi Energy Smart (Malaysia) SDN BHD by imputing notional cost of interest.
107. With regard to argument of Kibing Group (M) Sdn. Bhd. about cost computation, it is noted that the cost computed in respect of Kibing Group (M) Sdn. Bhd. is based on consistent practice of DGTR.
108. With regard to the argument of Xinyi Energy Smart (Malaysia) SDN BHD with regard to the notional interest rate charged in respect of loans from principal shareholder, it is found that the cost was understated to the extent of the impact of interest of such loans and the Authority has duly adjusted the same by imputing notional interest cost.
109. The exporter has claimed adjustment in domestic sales in respect of Quality Difference. However, sufficient justifiable evidence in this regard was not provided. The Authority has not considered this adjustment while arriving at ex-factory domestic sales.

Conclusions on Injury and causal link

110. An examination of the various parameters of injury along with the volume and price effects of imports reveals that there is an increase in the volume of imports of the subject goods from Malaysia during the injury investigation period in absolute terms as well as in relation to the total imports, domestic production and total demand in the country. With regard to price effect, it is noted that imports of the subject goods from Malaysia are undercutting the selling price of the domestic industry. The domestic industry has also suffered price suppression on account of dumped imports of subject goods from subject countries as selling price of subject goods has not increased in line with increase in cost of sales of subject goods during the injury period. With regard to impact of volume and price effect on the domestic industry, it is noted that sales, production and capacity utilization of the domestic industry has been adversely affected. Further, it is also noted that profitability of the domestic industry has been adversely affected on account of dumped imports of subject goods from Malaysia.
111. From the examination, it is also noted that listed known other factors do not show that the domestic industry could have suffered injury due to these other factors. The Authority examined whether the dumping of the product has caused injury to the domestic industry. The following parameters show that injury to the domestic industry has been caused by dumped imports:
 - a. Imports of the subject goods from the subject country has increased in absolute terms during the POI as compared to the immediately preceding year i.e., 2017-18. Imports of the PUC from the subject country has also increased in absolute terms as well as increased relative to production and consumption in India.
 - b. The domestic industry has not been able to increase its production and sales commensurate with the increase in demand.

- c. Market share of the Domestic Industry has decreased from during the injury period even though demand for the subject goods has been rising in India during the same period. This is due to the reason that imports have aggressively captured the increase in demand.
- d. The imports of subject goods from subject countries were significantly undercutting the prices of the domestic industry in the market. Resultantly, the domestic industry was forced to reduce its prices. The price depression suffered by the domestic industry is primarily because of dumping of the product in the country.
- e. The domestic industry was forced to reduce its prices even below its cost causing financial losses. The price depression caused by the dumped imports from subject country has thus resulted in negative profit from positive profit during the POI.
- f. Performance of the domestic industry with regard to profits, cash flow and return on investments deteriorated as a result of price depression. Thus, dumping of the product has led to deterioration in performance of the domestic industry in terms of profits, cash flow and return on investments.

112. The Authority, therefore, concludes that the Domestic Industry has suffered material injury due to dumped imports due to dumped imports of subject goods from subject country.

I. INDIAN INDUSTRY'S INTEREST & OTHER ISSUES

113. The Authority recognizes that the imposition of anti-dumping duties might affect the price levels of the product in India. However, fair competition in the Indian market will not be reduced by the anti-dumping measures. On the contrary, imposition of anti-dumping measures would remove the unfair advantages gained by dumping practices, prevent the decline of the Domestic Industry and help maintain availability of wider choice to the consumers of the subject goods.

114. 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 end user. The end user could still maintain two or even more sources of supply. The purpose of anti-dumping duties, in general, is to eliminate injury caused to the domestic industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Imposition of anti-dumping measures would not affect the availability of the subject goods to the consumers.

J. CONCLUSION

115. Having regard to the contentions raised, information provided, and submissions made by the interested parties and facts available before the Authority as recorded in these final findings and on the basis of the above analysis, the Authority concludes that:

- a. The product under consideration has been exported to India from the subject country below its associated normal value, thus resulting in dumping.

- b. The Domestic Industry has suffered material injury due to dumping of the product under consideration from the subject country.
- c. The material injury has been caused by the dumped imports from the subject country

K. RECOMMENDATION

116. 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 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 and having established positive dumping margin as well as material injury to the domestic industry caused by such dumped imports, the Authority is of the view that imposition of definitive anti-dumping duty is required to offset dumping and injury. The Authority, therefore, considers it necessary and recommends imposition of anti-dumping duty on imports of the subject goods from the subject country in the form and manner described hereunder.

117. In terms of provision contained in Rule 17(1) (b) read with Rule 4(d) of the Rules, the Authority recommends imposition of 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. Taking into account factual matrix of the case, and having regard to information provided, and submissions made by interested parties, it is considered appropriate to recommend benchmark/reference form of anti-dumping duties. The Authority recommends imposition of definitive anti-dumping duties on import of subject goods originating in or exported from subject country, from the date of notification to be issued in this regard by the Central government as the difference between the landed value of subject goods and the reference price indicated in column 7 of the table below, provided the landed value is less than the value indicated in column 7.

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

Duty Table

S. No	Heading /Sub-headings	Description of Group	Country of origin	Country of export	Producer	Reference Price	Currency	Unit
1	2	3	4	5	6	7	8	9
1	7005	Clear Float Glass of nominal thicknesses ranging from 4mm to 12mm	Malaysia	Malaysia	Kibing Group (M) Sdn. Bhd.	273.12	USD	MT

		(both inclusive), the nominal thickness being as per BIS 14900:2000						
2	-do-	-do-	Malaysia	Malaysia	Xinyi Energy Smart (Malaysia) Sdn. Bhd.	272.87		
3	-do-	-do-	Malaysia	Any	Any other than S No 1 and 2 above	326.00	USD	MT
4	-do-	-do-	Any country not attracting anti-dumping duties	Malaysia	Any	326.00	USD	MT

L. FURTHER PROCEDURE

119. An appeal against the orders of the Central Government that may arise out of this recommendation shall lie before the Customs, Excise and Service tax Appellate Tribunal in accordance with the relevant provisions of the Act.

(Bidyut Behari Swain)
Special Secretary & Designated Authority