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**No. 7/10/2021-DGTR
Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Trade Remedies
Jeevan Tara Building, 5, Parliament Street, New Delhi 110001**

Dated 13.05.2022

NOTIFICATION

FINAL FINDINGS

Subject: Sunset review anti-dumping investigation concerning imports of Textured Tempered Coated and Uncoated Glass from China PR.

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' or 'AD Rules') thereof.

A. BACKGROUND OF THE CASE

1. M/s Borosil Renewables Limited (hereinafter also referred to as “domestic industry” or “applicant”) has filed an application before the Designated Authority (hereinafter referred to as the “Authority”), in accordance with the Customs Tariff Act, 1975 as amended from time to time (hereinafter referred 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 referred as the Rules) for sunset review of anti-dumping investigation concerning the imports of Textured Tempered Coated and Uncoated Glass (hereinafter referred as the “subject goods” or “product under consideration”), originating in or exported from China PR (hereinafter referred to as the “subject country”).
2. The applicant has alleged likelihood of continuation or recurrence of dumping of subject goods, originating and exported from the subject country and consequent injury to the domestic industry and has requested for review and continuation of the anti-dumping duty imposed on the imports of subject goods, originating in or exported from the subject country.
3. Section 9A(5) of the Act, inter alia, provides that anti-dumping duty imposed shall, unless revoked earlier, cease to have effect on expiry of five years from the date of such

imposition and the Authority is required to review whether the expiry of duty is likely to lead to continuation or recurrence of dumping and injury. In accordance with the above, the Authority is required to review, on the basis of a duly substantiated request made by or on behalf of the domestic industry, as to whether the expiry of duty is likely to lead to continuation or recurrence of dumping and injury.

4. Rule 23(1B) of the Rules provides as follows:

"... any definitive anti-dumping duty levied under the Act shall be effective for a period not exceeding five years from the date of its imposition, unless the Designated Authority comes to a conclusion, on a review initiated before that period on its own initiative or upon a duly substantiated request made by or on behalf of the domestic industry within a reasonable period of time prior to the expiry of that period, that the expiry of the said anti-dumping duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry."

5. Based on the substantiated application with prima facie evidence of likelihood of dumping and injury filed on behalf of the domestic industry in accordance with Section 9A(5) of the Act, read with Rule 23 of the Anti-dumping Rules, the Authority initiated the sunset review investigation vide Notification No. 7/10/2021-DGTR (AD-SSR No. 10/2020) dated 07.06.2021 and to examine whether the expiry of the said duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry and whether there is a need for continued imposition of antidumping duty in respect of the subject goods originating in or exported from China PR.
6. Earlier, the Authority had initiated an antidumping investigation in respect of imports of Textured Tempered Coated and Uncoated Glass from China PR on 23.06.2016 and after conducting the investigation had recommended imposition of definitive duty vide Final Findings Notification No. 14/03/2016-DGAD dated 20.06.2017. On the basis of the recommendations made by the Authority in the final findings, definitive anti-dumping duty was imposed by the Central Government vide Notification No. 38/2017-Customs (ADD) dated 18.08.2017.

B. PROCEDURE

7. The procedure described below has been followed with regard to this investigation:
- i. The Authority issued a Notification dated 07.06.2021, published in the Gazette of India Extraordinary, initiating investigation concerning imports of the subject goods from China PR.
 - ii. The Authority sent a copy of the initiation notification to the Embassy of the subject country in India, known producers/exporters from China PR, known importers/users and the domestic industry as per the addresses made available by

the applicant and requested them to make their views known in writing within 30 days of the initiation notification in accordance with Rule 6(2) of the AD Rules. The time limit to file information was extended first up to 18.07.2021 and then up to 28.07.2021.

- iii. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters, known importers and to the Embassy of the subject country in India in accordance with Rule 6(3) of the AD Rules.
- iv. The Embassy of China PR in India was also requested to advise the exporters/producers from China PR to respond to the questionnaire within the prescribed time limit. A copy of the letter and questionnaire sent to the producers/exporters was also sent to them along with the names and addresses of the known producers/exporters from China PR.
- v. The Authority sent exporter's questionnaire to the following known producers/exporters in China PR, whose details were made available by the applicant, to elicit relevant information in accordance with Rule 6(4) of the Rules:
 - a. Dongguan CSG Solar Glass Co., Ltd.
 - b. Zhejiang Jiafu Glass Co Ltd (Shanghai Flat glass, FSG Group)
 - c. Henan Ancai Hi Tech Co Ltd.
 - d. Shaanxi Topray solar wienan, China
 - e. Xinyi Solar (Hongkong) Limited
- vi. The following producers/exporters from China PR have filed exporter's questionnaire response:
 - a. Xinyi PV Products (Anhui) Holdings Ltd.
 - b. Xinyi Solar (Hong Kong) Limited
 - c. Guangxi Xinyi Photovoltaic Industry Co., Ltd
 - d. Wujiang CSG Glass Co., Ltd
 - e. Dongguan CSG Solar Glass Co., Ltd.
 - f. Shaanxi Topray Solar Co. Ltd
 - g. Henan Ancai Hi Tech Co., Ltd
 - h. Henan Ancai Photovoltaic Advanced Material Co., Ltd
 - i. Anhui Flat Solar Glass Co. Ltd
 - j. Flat Glass Group Co. Ltd
 - k. Flat (Hong Kong) Co. Ltd
 - l. Zhejiang Jiafu Glass Co. Ltd
- vii. The Authority forwarded a copy of the Initiation Notification to the following known importers/users/user associations of the subject goods in India, whose

names and addresses were made available to the Authority, and advised them to make their views known in writing within the time limit prescribed by the Authority in accordance with the Rule 6(4):

- a. Mundra Solar PV Limited
 - b. Swelect Energy Systems Limited
 - c. Premier Energies Limited
 - d. Renewsys India Private Limited
 - e. Goldi Solar Private Limited
 - f. Waaree Energies Limited
 - g. Alpex Exports Pvt Ltd
 - h. Vikram Solar Pvt Ltd
 - i. Topsun Energy Limited
 - j. Tata Power Solar Systems Limited
 - k. Emmvee Photovoltaic Power Pvt Ltd
 - l. Navitas Green Solutions Pvt Ltd
 - m. Sova Power Limited
- viii. None of the users/ importers / consumers have filed the importer's questionnaire response in the prescribed format.
- ix. Foreign producers/exporters and other interested parties who have not responded to the Authority, or not supplied information relevant to this investigation, are proposed to be treated as non-cooperating interested parties.
- x. Information provided by the interested parties on confidential basis was examined with regard to the sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to the other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.
- xi. All the interested parties were asked to share the non-confidential version of the responses, submissions and evidence presented by them with the other interested parties.
- xii. The period of investigation for the purpose of the present investigation has been considered from January 2020 to December 2020 (POI). The injury investigation period has been considered as the period April 2017 to March 2018, April 2018 to March 2019, April 2019 to March 2020, and the period of investigation.
- xiii. Additional/supplementary information was sought from the applicants and the other interested parties to the extent deemed necessary. Verification of the data

provided by the domestic industry and the other interested parties was conducted to the extent considered necessary for the purpose of the investigation.

- xiv. The Non-injurious Price (NIP) is based on the cost of production and the cost to make and sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) and Annexure III to the AD Rules. It has been worked out so as to ascertain whether duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.
- xv. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) and from DG-Systems to provide the transaction-wise details of imports of subject goods for the injury period. The same has been relied upon for computation of the volume and value of imports.
- xvi. In accordance with Rule 6(6) of the Rules, the Authority provided opportunity to all the interested parties to present their views orally in the oral hearing held on 08.09.2021 which was attended by various parties. The oral hearing was held through video conferencing in view of the special circumstances arising out of the COVID- 19 pandemic. All the parties who presented their views in the oral hearing were requested to file written submissions of these views, in order to enable opposing interested parties to file rejoinders thereafter.
- xvii. The submissions made by the interested parties during the course of this investigation, wherever found relevant, have been addressed by the Authority, in these final findings.
- xviii. Wherever an interested party has refused access to or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has considered such parties as non-cooperative and recorded these final findings on the basis of the facts available.
- xix. In accordance with Rule 16 of the Rules, the essential facts of the investigation were disclosed to the known interested parties vide disclosure statement dated 5th May, 2022 and comments received thereon, considered relevant by the Authority, have been addressed in these final findings. The Authority notes that most of the post disclosure submissions made by the interested parties are mere reiteration of their earlier submissions. However, the post disclosure submissions to the extent considered relevant are being examined in these final findings.
- xx. *** in these final findings represents information furnished by an interested party on confidential basis, and so considered by the Authority under the Rules.

xxi. The exchange rate adopted by the Authority during the POI for the subject investigation is 1 US\$= Rs. 75.02.

C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

8. The product under consideration in the present sunset review is “Textured Toughened (Tempered) Glass with a minimum of 90.5% transmission of 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” originating in or exported from China PR.
9. The product in the market parlance is also known by various names such as Solar Glass, Solar Glass Low Iron, Solar PV Glass, High Transmission Photovoltaic Glass, Tempered Low Iron Patterned Solar Glass etc. Textured Tempered Glass is used as a component in Solar Photovoltaic Panels and Solar Thermal applications. The level of transmission 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.

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

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

Submissions made by the Domestic Industry

11. The product under consideration in the present sunset review 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”.
12. The product in the market parlance is also known by various names such as Solar Glass, Low Iron Solar Glass, Solar PV Glass, High Transmission Photovoltaic Glass, Tempered Low Iron Patterned Solar Glass etc. Textured Tempered Glass is used as a component in Solar Photovoltaic Panels and Solar Thermal applications. The level of transmission 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.
13. The subject products are predominantly imported under tariff classification at the 8-digit level is 70071900 even though the same are being imported under various sub-headings of the Customs Tariff Act, 1975, as can be seen from the import data. The subject goods are also being imported in the sub-headings 70031990, 70051010, 70051090, 70052190, 70052990, 70053090, 70071900, 70072190, 70072900,

70169000, 70200090 and 85414011 as evidenced by the import data. Moreover, it is also submitted that the custom classification is indicative only and in no way binding upon the product scope and the product description prevails in circumstances of conflict

14. There is no known difference in the subject goods produced by the domestic industry and that imported from China PR. The subject goods produced by the domestic industry and the subject goods imported from the 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 applicant have claimed that the subject goods, which are coming 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 subsidized 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 by the Authority

15. The product under consideration in the original investigation as well as in the present sunset review investigation 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.
16. The product in the market parlance is also known by various names such as Solar Glass, Low Iron Solar Glass, Solar PV Glass, High Transmission Photovoltaic Glass, Tempered Low Iron Patterned Solar Glass etc. Textured Tempered Glass is used as a component in Solar Photovoltaic Panels and Solar Thermal applications. The level of transmission 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.
17. The product under consideration is classified under tariff item 70071900 of the Customs Tariff. The applicant has claimed that the product under consideration has also been imported under tariff items 70031990, 70051010, 70051090, 70052190, 70052990, 70053090, 70072190, 70072900, 70169000, 70200090 and 85414011 of the Customs Tariff. However, customs classification is indicative only and not binding on the scope of the product under consideration.
18. 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."

19. The Authority notes that there is no known difference in the product under consideration produced by the Indian industry and that exported from China PR. The product under consideration produced by the Indian industry and imported from China PR 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 subject country within the scope and meaning of Rule 2(d) of anti-dumping Rules.

D. SCOPE OF DOMESTIC INDUSTRY AND STANDING

20. The current application has been filed by M/s Borosil Renewables Limited. The applicant commands 100% share in Indian production of the subject goods during the period of investigation. As per the information available there is no other known producer of the product under consideration in the country.
21. As per the available information, the applicant has neither imported the subject goods from the subject country nor it is related to any importer or exporter of the subject goods. In view of the above, the applicant fulfils the criteria of domestic industry and the standing requirement as laid down under the Indian Anti-dumping Rules.
22. None of the foreign producers/exporters/other interested parties have made any submission with regard to scope and standing of the domestic industry.
23. In view of the above, the Authority has considered the applicant as domestic industry within the meaning of the Rule 2(b) of the Rules and the application satisfies the criteria of standing in terms of Rule 5 of the Rules.

E. CONFIDENTIALITY

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

24. The foreign producers/exporters/other interested parties have made the following submissions:
 - i. The applicant has claimed excessive confidentiality with respect to information provided in Format A to L and NIP information. Moreover, the domestic industry has not provided trend of data wherein information was to be given for more than one year.

- ii. Since the domestic industry has not followed Trade Notice 03/2021 dated 12.04.2021, current investigation needs to be terminated.
- iii. The domestic industry has claimed supporting evidence for normal value, export price as confidential, which ought to be provided for comments from the interested parties.
- iv. Exporters have filed their data as per the applicable Trade Notices and as per the practice of the DGTR.

Submissions made by the domestic industry

25. The domestic industry has made the following submissions:

- i. The applicant has claimed that as far as their submissions / information 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.
- ii. All the economic parameters considered by the Authority for the purpose of arriving at the determination of injury have been provided in compliance with trade notice 10/2018 dated 7.09.2018.
- iii. Responses filed by the participating producers fail to comply with requirements laid down by the Authority with regard to confidentiality. Response to most of the questions in questionnaire have been claimed completely confidential with no meaningful summary provided.
- iv. Respondents have made mockery of the system by not providing proper non-confidential version of their responses fully complying with the requirements of the Trade Notice 10/2018 dated 7.09.2018.
- v. The domestic industry has fulfilled the obligation of providing import data in manner stated in Trade Notice 07/2018. The interested parties are free to obtain data from DGCI&S or from the Authority.

Examination by the Authority

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

(1) "Confidential information: (1) Notwithstanding anything contained in sub-rules (2), (3) and (7) of rule 6, sub-rule(2) of rule 12, sub-rule(4) of rule 15 and sub-rule (4) of rule 17, the copies of applications received under sub-rule (1) of rule 5, or any other information provided to the designated authority on a confidential basis by

any party in the course of investigation, shall, upon the designated authority being satisfied as to its confidentiality, be treated as such by it and no such information shall be disclosed to any other party without specific authorization of the party providing such information.

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

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

27. Submissions made by the domestic industry and the other interested parties with regard to confidentiality, to the extent considered relevant, were examined by the Authority and addressed accordingly. The Authority notes that the information provided by all the interested parties on confidential basis was examined with regard to the sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. All interested parties have claimed their business-related sensitive information as confidential.
28. The Authority notes that the domestic industry and the other interested parties have provided non-confidential version of all the information that is relevant for the purpose of the present investigation.

F. MISCELLANEOUS SUBMISSIONS

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

29. Following miscellaneous submissions have been made by the other interested parties:
- i. Continuation of duty under Section 9A(5) is an exception and not a norm and in the instant sunset review investigation there does not exist any exceptional circumstances calling for the continuance of anti-dumping duty.
 - ii. Performance of the domestic industry is dependent on the performance of the solar module manufacturers. Even if the imports are NIL, the domestic industry would be impacted as many producers in the downstream industry have shut down their operations.

- iii. The levy of anti-dumping duties on the Textured Tempered Glass will create a situation wherein the applicant will establish monopoly. Therefore, the Authority should not extend the duty.
- iv. The application filed by the domestic industry in the present case failed to show any positive evidence to support the initiation and therefore, it was not necessary to initiate the investigation at all.
- v. The imports in SEZ should be excluded.
- vi. The petitioner has already been enjoying the protection in the form of anti-dumping duty for the past 6 years. The earlier imposition of anti-dumping duty has served its purpose and is not further required to be extended. Any further extension of existing duty will be in violation of Article 11 of the Anti-Dumping Agreement.
- vii. Since only few exporters have established their production in Malaysia, there is no merit in the submission of the domestic industry that post imposition, imports have shifted from China PR to Malaysia, as majority of the exporters are still exporting from China PR only.

Submissions made by the domestic industry

30. Following miscellaneous submissions have been made by the domestic industry:

- i. As regards the contention that continuation of duties will lead to a situation of monopoly, it is submitted that this argument is completely devoid of any merit and has been rejected in the original investigation itself. It is further submitted by the domestic industry that it has been held by the Authority time and again that the objective of trade remedial investigation is not to block any imports but only to address the situation created by unfairly priced imports. Anti-dumping duties being country specific duties, the importers are free to import the subject goods at fair prices from the subject country as well as from other countries. Therefore, there is no question of monopoly by the domestic industry or causing shortage as the fairly priced imports can still come after the imposition of duties. A monopoly can exist only if there is a single supplier in the market which is not the case. A single producer does not create any monopoly as the goods continue to reach the marketplace from other suppliers around the world.
- ii. In relation to the submissions of the interested parties that the performance of the domestic industry is linked to the performance of the solar module manufacturers, it is submitted by the domestic industry that the said argument purported by the interested parties is without any basis. While it is true that certain manufacturers

in solar industry have shut down their operations, the same has not impacted the demand of the subject goods in the country as can be seen from the data on record.

- iii. There is no merit in the submissions of the interested parties that imports in SEZ should be excluded. SEZ is very much a market of the domestic industry and therefore, no separate analysis is required.
- iv. From the data on record, it is clear that post imposition of anti-dumping duties from China PR, imports have gradually shifted to Malaysia. Since most of the exporters have submitted that they have not shifted, this only shows that at fair price they are not able to compete with Indian producers and if duties are not extended, their exports will again increase. Even quantities exported from Malaysia, will also find their way into Indian market through Chinese producers.
- v. The domestic industry has submitted that they have provided all the information which is sufficient for the purpose of initiation of the investigation. Even the Authority also in the initiation mentioned that the information provided by the Domestic Industry is prima-facie sufficient for the purpose of the initiation. Therefore, the submissions of the interested parties that the domestic industry has not provided sufficient information for the initiation is incorrect.
- vi. The domestic industry has submitted that as per the consistent practice of the Authority, the duties should be extended for the period of five more years. Further, Section 9A(5) also supports extension of five years.

Examination by the Authority

31. It is noted that the information filed by the domestic industry was found sufficient for the purpose of the initiation of the investigation. It is further noted that none of the interested parties have provided any information / evidence to show how initiation based on the application filed by the domestic industry has violated any rule. It is therefore noted that there is no merit in the submissions of the other interested parties.
32. In relation to the period of extension of anti-dumping duties, it is noted that the Authority decides the period of the extension of anti-dumping duties as envisaged in the Section 9A(5) post examination of the data and comments filed by the interested parties.

G. Determination of normal value, export price and dumping margin

33. As per section 9A(1)(c) of the Act, the normal value in relation to an article means:

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

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

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

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

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

Provisions relating to Non-Market Economy countries

34. 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 16country 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”

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

35. The submissions made by the other interested parties with regard to normal value, export price and dumping margin are as follows:
- i. The domestic industry has failed to provide any reliable information in relation to normal value and export price of subject goods in China PR and therefore, the same should not be considered for final determination.
 - ii. The Authority should consider the information filed by the producers / exporters for determining dumping margin.
 - iii. The dumping margin claimed in the petition is highly exaggerated as compared to the original investigation and therefore, the Authority should check the same.

Submissions made by the domestic industry

36. The submissions made by the domestic industry with regard to normal value, export price and dumping margin are as follows:
- i. Since none of the exporters have claimed market economy status, their normal value should be based on the paragraph 7 of Annexure I of AD Rules.
 - ii. The Chinese exporters continue to dump the subject goods in Indian market despite imposition of anti-dumping duties. In fact, the export price of the Chinese exporters to India has declined post imposition of ADD despite increase in cost.
 - iii. Interestingly, none of the cooperating exporters have even claimed that they are not dumping the subject goods in India. Moreover, the domestic industry has calculated dumping margin based on the export price calculated from DGCI&S data and constructed normal value as per the consistent practice of the DGTR. Therefore, computed dumping margin is as per practice of the DGTR and cannot be said to be more.
 - iv. The domestic industry has requested the Authority to check whether exporters have claimed SG&A and profit for unrelated exporters or not.

Examination by the Authority

37. The Authority sent questionnaires to the known producers/exporters from China PR, advising them to provide information in the form and manner prescribed by the Authority. The following producers/exporters from China PR have filed exporter's questionnaire response:
- a. Xinyi PV Products (Anhui) Holdings Ltd.

- b. Xinyi Solar (Hong Kong) Limited
- c. Guangxi Xinyi Photovoltaic Industry Co., Ltd
- d. Wujiang CSG Glass Co., Ltd
- e. Dongguan CSG Solar Glass Co., Ltd.
- f. Shaanxi Topray Solar Co. Ltd
- g. Henan Ancai Hi Tech Co., Ltd
- h. Henan Ancai Photovoltaic Advanced Material Co., Ltd
- i. Anhui Flat Solar Glass Co. Ltd
- j. Flat Glass Group Co. Ltd
- k. Flat (Hong Kong) Co. Ltd
- l. Zhejiang Jiafu Glass Co. Ltd

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

Determination of Normal Value

39. Article 15 of China's Accession Protocol in WTO provides as follows:

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

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

i. If the producers under investigation can clearly show that market economy conditions prevail in the industry producing the like product with regard to the manufacture, production and sale of that product, the importing WTO Member shall use Chinese prices or costs for the industry under investigation in determining price comparability;

ii. The importing WTO Member may use a methodology that is not based on a strict comparison with domestic prices or costs in China if the producers under investigation cannot clearly show that market economy conditions prevail in the industry producing the like product with regard to manufacture, production and sale of that product.

- b. *In proceedings under Parts II, III and V of the SCM Agreement, when addressing subsidies described in Articles 14(a), 14(b), 14(c) and 14(d), relevant provisions of the SCM Agreement shall apply; however, if there are special difficulties in that application, the importing WTO Member may then use methodologies for identifying and measuring the subsidy benefit which take into account the possibility that prevailing terms and conditions in China PR may not always be available as appropriate benchmarks. In applying such methodologies, where practicable, the importing WTO Member should adjust such prevailing terms and conditions before considering the use of terms and conditions prevailing outside China PR.*
- c. *The importing WTO Member shall notify methodologies used in accordance with sub paragraph (a) to the Committee on Anti-Dumping Practices and shall notify methodologies used in accordance with sub paragraph (b) to the Committee on Subsidies and Countervailing Measures.*
- d. *Once China has established, under the national law of the importing WTO Member, that it is a market economy, the provisions of subparagraph (a) shall be terminated provided that the importing Member's national law contains market economy criteria as of the date of accession. In any event, the provisions of subparagraph (a)(ii) shall expire 15 years after the date of accession. In addition, should China establish, pursuant to the national law of the importing WTO Member, that market economy conditions prevail in a particular industry or sector, the nonmarket economy provisions of subparagraph (a) shall no longer apply to that industry or sector.”*

40. It is noted that while the provision contained in Article 15 (a) (ii) has expired on 11.12.2016, the provision under Article 2.2.1.1 of WTO read with obligation under 15 (a) (i) of the Accession Protocol require criterion stipulated in para 8 of the Annexure I of the Rules to be satisfied through the information/data to be provided in the supplementary questionnaire on claiming the market economy status. It is noted that since producers/ exporters from China PR have not submitted response to MET/supplementary questionnaire in the form and manner prescribed, the normal value computation is required to be done as per provisions of para. 7 of Annexure I of the Rules.

41. As none of the producers from China PR have filed the Supplementary Questionnaire response, the normal value has been determined in accordance with Para 7 of Annexure I of the Rules. Since none of the interested parties have provided / suggested any surrogate country for construction of normal value, the Authority has proposed not to adopt any surrogate country in the absence of any data / information. Therefore, in the absence of sufficient information on record, regarding the other methods as are enshrined in Para 7 of Annexure I of the Rules, the Authority has determined the

normal value on "any other reasonable basis". The Authority has, therefore, constructed the normal value for China PR on the basis of the cost of production of PUC by the domestic industry; selling, general and administrative expenses based on the experience of the domestic industry and reasonable profit margin. The constructed normal value so determined for Chinese producers/exporters is mentioned in the dumping margin table

42. The Authority has not considered the exports made by the participating producers/exporters to India during April 2020 to June 2020 quarter in the dumping determination as well as injury analysis because of COVID-19 lockdown in India during that period.

Export Price in case of Flat Glass Group Co., Ltd., Zhejiang Jiafu Glass Co., Ltd., Anhui Flat Solar Glass Co., Ltd. and Flat (Hong Kong) Co., Limited

43. Flat Glass Group Co., Ltd. (hereinafter referred as "Flat Group"), Anhui Flat Solar Glass Co., Ltd. (hereinafter referred as "Anhui") and Zhejiang Jiafu Glass Co., Ltd. (hereinafter referred as "Jiafu") are related producers of subject goods in China PR. They have one related exporter namely Flat (Hong Kong) Co., Limited, Hong Kong (hereinafter referred as "Flat Hong Kong"). Flat Group has exported the subject goods directly to unrelated customers in India and also through its related exporter Flat Hong Kong. Anhui has not made any direct export sales of subject goods to India. It has made all exports to India through Flat Hong Kong. Jiafu has not made any direct export sales to India. It has made all exports to India through Flat Hong Kong and Flat Group. All the four entities have provided all the relevant information in requisite exporter questionnaire formats.
44. It is noted that during the POI, Flat Group has produced and exported *** MT of subject goods directly and *** MT of subject goods through Flat Hong Kong to unrelated customers in India. Anhui has produced and exported *** MT of subject goods through Flat Hong Kong to unrelated customers in India. Jiafu has produced and exported *** MT and *** MT of subject goods through Flat Group and Flat Hong Kong respectively to unrelated customers in India. Flat Group, Anhui, Jiafu and Flat Hong Kong have claimed adjustments on account of ocean freight, insurance, inland transportation, port and other related expenses, credit cost and bank charges.
45. The adjustments towards ocean freight, insurance, inland transportation, port and other related expenses, credit cost and bank charges have been verified and accepted by the Authority. Accordingly, the export price for the subject goods at ex-factory level for the group has been determined and shown in the dumping margin table below.

Export Price in case of Shaanxi Topray Solar Co., Ltd.

46. Shaanxi Topray Solar Co., Ltd. (hereinafter referred as "Topray") is a limited company established under Company Law of China PR. Topray has produced and exported the

subject goods directly to unrelated customers in India. Topray has provided all the relevant information in requisite Exporter questionnaire format.

47. It is noted that during the POI, Topray has produced and exported *** MT of subject goods to unrelated customers in India. Topray has claimed adjustments on accounts of inland transportation, port and other related expenses, credit cost, packaging cost, bank charges and commission. The aforesaid adjustments have been verified and accepted by the Authority. Accordingly, the export price for the subject goods at ex-factory level has been determined and shown in the dumping margin table below.

Export Price in case of Wujiang CSG Glass Co., Ltd. and Dongguan CSG Glass Co., Ltd.

48. Wujiang CSG Glass Co., Ltd. (hereinafter referred as “Wujiang CSG”) and Dongguan CSG Glass Co., Ltd. (hereinafter referred as “Dongguan CSG”) are related producers of subject goods in China PR.
49. Wujiang CSG has produced and exported the subject goods directly to unrelated customers in India. Wujiang CSG has provided all the relevant information in requisite Exporter questionnaire format. It is noted that during the POI, Wujiang CSG has produced and exported *** MT of subject goods to unrelated customers in India. Wujiang CSG has claimed adjustments on accounts of ocean freight, insurance, inland transportation, port and other related expenses, credit cost and bank charges.
50. Dongguan CSG has produced and exported the subject goods directly to unrelated customers in India and also through unrelated exporter namely, Swelect Energy Systems Pte. Ltd., Singapore. The quantity exported through Swelect Energy Systems Pte. Ltd., Singapore is approximately ***% of the total exports made to India. Dongguan CSG has provided all the relevant information in requisite Exporter questionnaire format. However, Swelect Energy Systems Pte. Ltd. has not participated in the subject investigation. It is noted that during the POI, Dongguan CSG has produced and exported *** MT directly to Indian customers and ***MT of subject goods through Swelect Energy Systems Pte. Ltd. Dongguan CSG has claimed adjustments on accounts of ocean freight, insurance, inland transportation, port and other related expenses, credit cost and bank charges.
51. The aforesaid adjustments claimed by Wujiang CSG and Dongguan CSG have been verified and accepted by the Authority. It is noted by the Authority that their unrelated trader namely Swelect Energy Systems Pte. Ltd. has not participated in the investigation and has accordingly not provided the relevant information. However, since the exports made through this unrelated trader is less than 30% of exports made by Wujiang CSG and Dongguan CSG, the Authority has accepted the response filed by the producers and has considered facts available for the export transactions routed through Swelect Energy

Systems Pte. Ltd for the determination of export price for the participating producers in the group. The export price for the subject goods at ex-factory level for the group so determined is shown in the dumping margin table below.

Export Price in case of Henan Ancai Photovoltaic Advanced Material Co., Ltd and Henan Ancai HiTech Co., Ltd

52. Henan Ancai HiTech Co., Ltd (hereinafter referred as “ACHT”) and Henan Ancai Photovoltaic Advanced Material Co., Ltd (hereinafter referred as “ACPM”) are related producers of subject goods in China PR.
53. ACHT has exported the subject goods directly to unrelated customers in India. ACHT has provided information in the requisite Exporter questionnaire format. It is noted that during the POI, ACHT has produced and exported *** M2 (***) Pieces) of subject goods to unrelated customers in India.
54. ACPM has not exported directly to customers in India. All exports of subject goods produced by ACPM have been made to India through ACHT. In the given set of facts, ACPM was required to provide information in Appendix-3C detailing the price at which it has sold the subject goods to ACHT and ACHT was required to provide information in Appendix-3A detailing the price at which it has sold the subject goods to customers in India. However, the Authority noted that ACPM did not submit the requisite information in Appendix-3C relating to exports to India. The Authority highlighted this deficiency to ACPM and requested them to provide the requisite information in Appendix 3C during the desk verification exercise. Even after the opportunity given to ACPM during the desk verification exercise, they did not provide the requisite information in Appendix-3C to the Authority.
55. In order to determine the dumping margin, the Authority is required to calculate the ex-factory export price at producer level and examine the profitability of each trader involved in export chain to India. The Authority works out the ex-factory export price based on the information provided by producer in Appendix-3C relating to exports to India. In the absence of Appendix-3C, the Authority cannot determine the ex-factory export price for the subject goods exported to India. In all the other investigations being conducted by the Authority involving related producers and exporters, Appendix-3C is being submitted by the producers.
56. On the basis of above, it is noted that ACPM has failed to discharge its responsibility even after the deficiency being pointed out to them. There was no plausible justification given by the producer why they cannot provide the information to the Authority.
57. The unit of measurement adopted by the Authority in this case is Metric Ton (MT). The Authority has also noted that both the producers have failed to provide export to

India quantitative information in MT despite the fact that anti-dumping duties were imposed per MT basis in the original investigation and the domestic industry has given all the information in its petition and also proposed to determine dumping and injury margin on per MT basis. All other producers/exporters from China PR have given the quantitative information to the Authority in MT. Accordingly, the Authority is not in the position to determine the ex-factory export price and landed price for ACPM and ACHT in the unit of measurement adopted by the Authority in the present investigation.

58. In view of the above, the Authority holds to not accept the exporter questionnaire response filed by ACPM and ACHT and not determine the individual dumping margin and injury margin for them.

Export Price in case of Xinyi PV Products (Anhui) Holdings Ltd., Guangxi Xinyi Photovoltaic Industry Co., Ltd and Xinyi Solar (Hong Kong) Limited

59. Xinyi PV Products (Anhui) Holdings Ltd [hereinafter referred as “Xinyi (Anhui)”] and Guangxi Xinyi Photovoltaic Industry Co., Ltd. (hereinafter referred as “Guangxi Xinyi”) are related producers of subject goods in China PR. They have a related exporter namely, Xinyi Solar (Hong Kong) Limited [hereinafter referred as “Xinyi (Hong Kong)”] in Hong Kong.
60. During the POI, Xinyi (Anhui) has not exported directly to customers in India. Xinyi (Anhui) has produced and exported *** MT of subject goods to unrelated customers in India through Xinyi (Hong Kong). During the POI, Guangxi Xinyi has not exported the subject goods to India. In the given set of facts, Xinyi (Anhui) was required to provide information in Appendix-3C detailing the price at which it has sold the subject goods to Xinyi (Hong Kong) and Xinyi (Hong Kong) was required to provide information in Appendix-3A detailing the price at which it has sold the subject goods to customers in India. However, the Authority noted that Xinyi (Anhui) did not submit the requisite information in Appendix-3C relating to the price at which Xinyi (Anhui) has sold the subject goods to Xinyi (Hong Kong). Rather Xinyi (Anhui) has submitted the Appendix-3C with the price at which Xinyi (Hong Kong) has sold the subject goods to customers in India.
61. In order to determine the dumping margin, the Authority is required to calculate the ex-factory export price at producer level and examine the profitability of each trader involved in the export chain to India. The Authority works out the ex-factory export price based on the information provided by the producer in Appendix-3C relating to the price at which producer has sold the subject goods to the trader/ exporter. In the absence of relevant information in Appendix-3C, the Authority cannot determine the ex-factory export price for the subject goods exported to India. In all the other investigations being conducted by the Authority involving related producers and exporters, the price at which producer has sold the subject goods to exporter/trader is being reported in

Appendix-3C by producers. It is thus noted that Xinyi (Anhui) has failed to discharge its responsibility and disclose full and correct information to the Authority.

62. It is further noted that the price of *** MT of subject goods exported by Xinyi (Anhui) to India through Xinyi (Hong Kong) is abnormally high. It is more than double of the average import price of the subject goods into India during the POI and therefore cannot be considered as reliable.
63. In Appendix 3A/3C, information relating to exports of subject goods to India during the POI is required to be furnished. On examination of the questionnaire response filed by these parties, it is noted that these parties have reported exports of *** MT of subject goods to India in Appendix 3A/3C. On careful scrutiny it was noted that out of *** MT reported by them, only *** MT was the exports to India during the POI. Rest of the quantity pertained to the post-POI period. No reason has been provided for reporting post-POI information in Appendix 3A and 3C of the exporter questionnaire format.
64. In view of the above, the Authority holds not to accept the Exporter questionnaire response filed by these producers/exporters and not determine an individual dumping margin and injury margin for them.

Normal Value and Export Price for all other producers and exporters

65. The normal value and export price for all other non-cooperating producers and exporters from China PR is proposed to be determined on the basis of facts available and the same is mentioned in the dumping margin table below.

Dumping Margin

66. Considering the normal value and export price determined, as explained above, it is noted that the dumping margin for producers/exporters from China PR is not only above the de-minimis limit but substantial.

DUMPING MARGIN TABLE

Exporter	Constructed Normal Value		Net Export Price		Dumping Margin			
	USD/MT	Rs/MT	USD/MT	Rs/MT	USD/MT	Rs/MT	%	Range
Flat Glass Group, Anhui and Jiafu	***	***	***	***	***	***	***	75-85
Shaanxi Topray	***	***	***	***	***	***	***	110-120
Wujiang	***	***	***	***	***	***	***	70-80

and Dongguan								
Others	***	***	***	***	***	***	***	140-150

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

67. Rule 11 of the Rules read with Annexure-II provides that an injury determination shall involve examination of factors that may indicate injury to the domestic industry, "*... taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles...*". In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.
68. Rule 23 of the Rules provides that the provisions of Rule 6, 7, 8, 9, 10, 11, 16, 18, 19 and 20 shall apply mutatis mutandis in case of a review. The Authority in its examination has evaluated the injury parameters which are required under Rule 11 and Annexure II of the Rules and has also examined as to whether the expiry of duty is likely to lead to continuation or recurrence of dumping and injury.

Submissions made by foreign producers/exporters and other interested parties

69. Following submissions have been made by the other interested parties with regard to injury and the causal link:
- i. Imports from China PR have not caused injury to the domestic industry. Further, any injury to the domestic industry during POI is only because of COVID-19 and not because of imports from the subject country.
 - ii. The POI in the present sunset review is fixed as 1st January 2020 to 31st December 2020. The POI is unrepresentative of actual situation of the domestic industry. Majority of the POI period has been affected by either full or partial lockdown due to COVID-19 pandemic. The performance of the domestic industry would have been impacted the most during April 2020 to June 2020 when strict lockdown was imposed across India. Therefore, the Authority should exclude April 2020 to June 2020 quarter from the POI for the purpose of injury and likelihood analysis as per the consistent practice followed by the Authority in other investigations.

- iii. The domestic industry has failed to demonstrate that they are suffering any injury. It is further submitted that the volume and price related parameters show improvement over the injury investigation period. This shows that domestic industry is doing well and there was no negative impact due to imports from the subject country.
- iv. The Authority should examine if injury claimed by the domestic industry was solely due to imports with insignificant market share or was it due to reasons other than imports from the subject country. If it is concluded that injury was due to other factors, Authority is requested to terminate the present review.
- v. The claims of the petitioner regarding its profitability are contrary to the published information on their official website and appear to be concocted and fabricated to show injury to the domestic industry. It is further submitted that the domestic industry in the Annual Report has stated that around 97% of its production is solar glass and rest 3% production goes to the other products. If the petitioner is suffering injury for solar glass, how only 3% could have generated profit of 43.01%.
- vi. Since majority of imports of the PUC during the POI are from Malaysia, if there is any likelihood of injury to the domestic industry, it is because of imports from Malaysia. Therefore, holding the producers/exporters from China PR accountable for the injury caused, if any, on account of massive imports from Malaysia is unjust and unfair.
- vii. If the domestic industry is suffering from injury, if any, it is on account of other parameters like contraction in demand and imports from other countries.

Submissions made by the Domestic Industry

70. The submissions of the domestic industry with regard to injury and causal link are as follows:
- i. The landed value of the subject goods from China PR is substantially lower as compared to the cost and selling price of the domestic industry. This has resulted in significant losses and negative cash profit.
 - ii. The positive price underselling and price undercutting clearly indicate the adverse price pressure on the domestic industry.
 - iii. Dumping margins are significantly positive from the data on record, and therefore, there is clear likelihood of increase in the demand of the imported subject goods in India from the China PR in the event of cessation of Anti-dumping duty.

- iv. If post imposition of anti-dumping duty, imports from the subject country declines, and there is positive price pressure on domestic industry, this shows strong likelihood for continuation of dumping from the subject country.
- v. The domestic industry is still suffering losses only because of low price imports from Chinese exporters. It is further submitted that only because of low priced imports, the domestic industry is not recovering its full cost despite its best efforts. The low prices import from the subject country has created significant price pressure on the domestic industry.
- vi. The domestic industry has submitted that since causal link has already been established in the original investigation, the Authority is required to examine whether cessation of anti-dumping duty would lead to continuance or recurrence of dumping and injury.
- vii. It is also submitted that existing anti-dumping duty helped the domestic industry to remain in operations. However, full recovery could not be attained due to low-priced dumped imports from China PR. In view thereof, continuation of duties is very critical.
- viii. Since the applicant is a multiproduct company and the product under consideration is subset of the solar business, any analysis based on numbers reported in Annual Reports on standalone basis will lead to incorrect conclusions.

Examination by the Authority

- 71. The Authority has taken note of the submissions made by the interested parties. Annexure-II of the Anti-Dumping Rules provides for objective examination of both (a) the volume of dumped imports and the effect of the dumped imports on prices in domestic market for the like articles; and (b) the consequent impact on domestic producers of such products.
- 72. According to Section 9A(5) of the Customs Tariff Act, 1975, anti-dumping duty imposed shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition, provided that if the Central Government, in a review, is of the opinion that the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury, it may extend the period of such imposition for a further period of five years.
- 73. In consideration of the various submissions made by the interested parties in this regard, the Authority has examined the current injury, if any, to the domestic industry before proceeding to examine the likelihood of dumping and injury on account of imports from the subject country.

74. The Authority notes that it is not necessary that all parameters of injury show deterioration. Some parameters may show deterioration, while some others may not. The Authority has examined the injury parameters objectively considering the facts and arguments submitted by the domestic industry and the other interested parties.
75. In order to nullify the effect of lockdown on account of COVID-19 pandemic and bring objectivity in injury analysis, the injury data for quarter April 2020 to June 2020 has been taken out and data for the remaining 9 months of POI has been annualized.
76. The Authority has taken note of various submissions made by the domestic industry and other interested parties on injury and causal link and analyzed the same based on facts available on record and applicable laws. The injury analysis made by the Authority in the succeeding paras ipso facto addresses submissions made by the domestic industry and other interested parties.

Volume Effect of dumped imports and impact on the Domestic Industry

Assessment of Demand/ Apparent Consumption

77. With regard to the volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India. For the purpose of injury analysis, the Authority has relied on the import data procured from the DGCI&S. Demand or apparent consumption has been determined as the sum of domestic sales of all the domestic producers and the imports from all the countries. The demand or apparent consumption of the subject goods shows a positive trend throughout the injury period as can be seen from the table below:

Particulars	UOM	2017-18	2018-19	2019-20	POI	
					9 M	Ann
Imports from China PR	MT	***	***	***	***	***
Trend	Indexed	100	151	116	41	55
Imports from Other Countries	MT	***	***	***	***	***
Trend	Indexed	100	111	314	245	327
Total Imports	MT	***	***	***	***	***
Trend	Indexed	100	136	190	117	157
Domestic Sales of Domestic Industry	MT	***	***	***	***	***
Trend	Indexed	100	101	163	222	296
Total Demand/Consumption	MT	***	***	***	***	***
Trend	Indexed	100	129	184	140	187

78. The demand of the subject goods has increased throughout the injury investigation period.

a. Import volume and share of the imports from China PR

79. The effects of the volume of dumped imports from China PR has been examined by the Authority in the following Table:

Particulars	UOM	2017-18	2018-19	2019-20	POI	
					9M	Ann
Imports from China PR	MT	***	***	***	***	***
Trend	Indexed	100	151	116	41	55
Imports from Malaysia	MT	***	***	***	***	***
Trend	Indexed	100	110	320	250	334
Imports from China PR + Malaysia	MT	***	***	***	***	***
Trend	Indexed	100	136	190	118	157
Imports from Other Countries	MT	***	***	***	***	***
Trend	Indexed	100	133	104	84	112
Total Imports	MT	***	***	***	***	***
Total PUC Production	MT	***	***	***	***	***
Trend	Indexed	100	107	152	196	261
Demand of Subject goods in India	MT	***	***	***	***	***
Trend	Indexed	100	129	184	140	187
Imports from China PR in relation to						
Production	%	***	***	***	***	***
Trend	Indexed	100	141	76	21	21
Consumption	%	***	***	***	***	***
Trend	Indexed	100	118	63	30	30

80. It is seen that the volume of dumped imports of subject goods from China PR increased till 2018-19 and thereafter declined. It is also noted that one of the Chinese producers shifted its exports from China PR to Malaysia after imposition of anti-dumping duties on China PR. Imports from Malaysia have significantly increased during 2019-20 and POI.

Price effect of the Dumped Imports on the Domestic Industry

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

a. Price Undercutting

82. With regard to the effect of dumped imports on prices, the Authority is required to consider whether there has been a significant price undercutting by the dumped imports as compared to the price of the like product in India or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. In this regard, a comparison has been made between the landed value of the product from China PR and the average

selling price of the domestic industry, net of all rebates and taxes, at the same level of trade. The prices of the domestic industry were determined at ex-factory levels.

Particulars	2017-18	2018-19	2019-20	POI	
				9M	Ann
Landed value from China PR (Rs/MT)	***	***	***	***	***
Trend	100	101	104	108	108
Domestic selling price (Rs/MT)	***	***	***	***	***
Trend	100	102	96	101	101
Price Undercutting (Rs/MT)	***	***	***	***	***
Trend	100	106	58	71	71
Price Undercutting (%)	***	***	***	***	***
Trend	15-25	15-25	10-20	10-20	10-20

83. The Authority notes that the landed value of the subject goods from China PR is significantly below the net sales realization of the domestic industry and accordingly, the imports are undercutting the prices of the domestic industry.

b. Price Suppression/depression

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

Particulars	UOM	2017-18	2018-19	2019-20	POI	
					9M	Ann
Wt. Avg Cost of Sales	Rs/MT	***	***	***	***	***
Trend	Indexed	100	115	99	123	123
Wt. Avg. Selling Price	Rs/MT	***	***	***	***	***
Trend	Indexed	100	102	96	101	101
Wt. Avg Landed Price of Imports from China PR	Rs/MT	***	***	***	***	***
Trend	Indexed	100	101	104	108	108

85. It can be seen that the weighted average landed value of the PUC from China PR is consistently below the weighted average selling price and weighted average cost of the PUC of the domestic industry. Similarly, the weighted average selling price is also below the weighted average cost during the entire injury investigation period. The domestic industry is also not able to increase its prices to fully recover its increase in cost due to the

presence of dumped imports, thus indicating that the prices of the domestic industry have been suppressed.

c. Price Underselling

86. The Authority has determined price underselling by comparing the NIP and landed price of imports during the POI.

Particulars	UOM	Value
NIP	Rs/MT	***
Landed Value from China PR	Rs/MT	***
Price Underselling	Rs/MT	***
Price Underselling	%	***
Price Underselling	Range	50-60

87. It is seen that price underselling is not only positive but substantial.

Impact on economic parameters of the domestic industry

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

a. Capacity, Production, Sales & Capacity Utilization

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

Particulars	Unit	2017-18	2018-19	2019-20	POI	
					9M	Ann
Capacity	MT	***	***	***	***	***
Trend	Indexed	100	116	170	171	227
Production – Total	MT	***	***	***	***	***
Trend	Indexed	100	111	143	177	236
Production – PUC	MT	***	***	***	***	***
Trend	Indexed	100	107	152	196	261

Particulars	Unit	2017-18	2018-19	2019-20	POI	
					9M	Ann
Capacity utilization based on Total Production	%	***	***	***	***	***
Trend	Indexed	100	96	84	104	104
Domestic sales	MT	***	***	***	***	***
Trend	Indexed	100	101	163	222	296

90. The capacity of the domestic industry has increased during the injury investigation period. It is further noted that the production and sales of the PUC have also increased throughout the injury investigation period, which are in line with the increase in demand for the subject goods in the country.

b. Market Share

91. Market share of imports from the subject country as well as that of domestic sales by the Domestic Industry have been examined as below:

Market Share	UOM	2017-18	2018-19	2019-20	POI	
					9M	Ann
Total Demand	MT	***	***	***	***	***
Trend	Indexed	100	129	184	140	187
Domestic Sales	%	***	***	***	***	***
Trend	Indexed	100	78	89	159	159
China PR	%	***	***	***	***	***
Trend	Indexed	100	118	63	30	30
China PR + Malaysia	%	***	***	***	***	***
Trend	Indexed	100	106	104	84	84
Other countries	%	***	***	***	***	***
Trend	Indexed	100	103	56	60	60

92. It is noted from the above table that market share of the domestic industry increased during the injury investigation period. It is also noted that the combined market share of imports from China PR and Malaysia is quite significant during the entire investigation period.

c. Inventories

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

Particulars	Unit	2017-18	2018-19	2019-20	POI
Average inventory	MT	***	***	***	***
Trend	Indexed	100	644	1,101	838

94. It is seen that the average inventory level of the domestic industry has increased till 2019-20 and thereafter decreased slightly during the POI.

d. Profits, Return on Investment and Cash Profit

95. Performance of the domestic industry has been examined in respect of profits, cash profits and return on capital employed:

Particulars	UOM	2017-18	2018-19	2019-20	POI	
					9M	Ann
Selling price	Rs. /MT	***	***	***	***	***
Trend	Indexed	100	102	96	101	101
Landed Value without ADD	Rs. /MT	***	***	***	***	***
ADD (based on lowest ADD imposed)	Rs. /MT	***	***	***	***	***
Landed Value with ADD	Rs. /MT	***	***	***	***	***
Cost	Rs. /MT	***	***	***	***	***
Trend	Indexed	100	115	99	123	123
Profit/loss	Rs. Lacs	***	***	***	***	***
Trend	Indexed	(100)	(166)	(175)	(465)	(620)
Profit/loss	Rs. /MT	***	***	***	***	***
Trend	Indexed	(100)	(164)	(107)	(209)	(209)
Cash Profit	Rs. Lacs	***	***	***	***	***
Trend	Indexed	(100)	(173)	(175)	(515)	(687)
Cash Profit	Rs. /MT	***	***	***	***	***
Trend	Indexed	(100)	(171)	(107)	(226)	(226)
Capital employed	Rs. Lacs	***	***	***	***	***
Trend	Indexed	100	105	273	274	274
ROCE	%	***	***	***	***	***
Trend	Indexed	(100)	(157)	(64)	(170)	(226)

96. It is noted that the domestic industry has been suffering losses throughout the injury investigation period. The cash profits and ROCE of the domestic industry has also been negative throughout the injury investigation period.

e. Employment, Wages and Productivity

97. The Authority has examined the information relating to employment, wages and productivity, as given below:

Particulars	Unit	2017-18	2018-19	2019-20	POI	
					9M	Ann
Production	MT	***	***	***	***	***
Trend	Indexed	100	107	152	196	261
Employees	Nos	***	***	***	***	***
Trend	Indexed	100	89	140	97	130

Particulars	Unit	2017-18	2018-19	2019-20	POI	
					9M	Ann
Production/employee	MT/Nos	***	***	***	***	***
Trend	Indexed	100	121	108	201	201
Wages	Rs. Lacs	***	***	***	***	***
Trend	Indexed	100	119	130	136	181
Wages / Employee	Rs. / No.	***	***	***	***	***
Trend	Indexed	100	134	93	139	139

98. It is noted from the above table that productivity, employees and wages have increased in the POI.

f. Growth

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

SN	Particulars	2018-19	2019-20	POI (Ann)
1	Production	7%	41%	72%
2	Domestic Sales	1%	62%	82%
3	Profit/(Loss) - Rs Lacs	-66%	-6%	-254%
4	Cash Profit - Rs Lacs	-73%	-1%	-292%
5	ROI %	-12%	20%	-34%

100. It is seen from the above table that volume related parameters of the Domestic Industry have shown growth and price related parameters of the Domestic Industry have shown decline throughout the injury period.

g. Ability to Raise Fresh Investment

101. It has been submitted by the domestic industry that due to the protection of anti-dumping duties against dumped imports from China PR, some fresh investments were made by them but the future investment in the sector would not be sustainable if dumped imports are allowed from China PR.

h. Magnitude of Injury Margin

102. The Authority has determined the NIP for the domestic industry on the basis of principles laid down in the Anti-Dumping Rules read with Annexure III to the AD Rules. The NIP of the product under consideration has been determined by adopting the information/data relating to the cost of production provided by the domestic industry for the period of investigation. The NIP has been compared with the landed price from the subject countries for calculating injury margin.

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

INJURY MARGIN TABLE

Exporter	NIP		Landed Price		Injury Margin			
	USD/MT	Rs/MT	USD/MT	Rs/MT	USD/MT	Rs/MT	%	Range
Flat Glass Group Anhui and Jiafu	***	***	***	***	***	***	***	30-40
Shaanxi Topray	***	***	***	***	***	***	***	50-60
Wujiang and Dongguan	***	***	***	***	***	***	***	40-50
Others	***	***	***	***	***	***	***	60-70

Conclusion on Injury

104. The Authority notes that subject imports have increased over the injury period till 2018-19 and thereafter declined. It is also noted that one of the Chinese producers shifted its exports from China PR to Malaysia after imposition of anti-dumping duties on China PR. Imports from Malaysia have significantly increased during 2019-20 and POI. The subject imports are significantly undercutting the selling price of the domestic industry throughout the injury period and also causing suppression effect on the prices of the domestic industry. Price underselling is also significantly positive. The domestic industry is suffering financial losses and negative returns on investment in the POI. The financial performance of the domestic industry deteriorated significantly during the POI due to dumped imports. The Authority, therefore, concludes that the domestic industry has suffered material injury.

I. CAUSAL LINK AND NON-ATTRIBUTION ANALYSIS

105. As per the AD Rules, the Authority, inter alia, is required to examine any known factors other than dumped imports which are injuring or are likely to cause injury to the domestic industry, so that the injury caused by these other factors may not be attributed to the dumped imports. While the present investigation is a sunset review investigation and causal link has already been examined in original investigation, the Authority examined whether other known listed factors have caused or are likely to cause injury to the domestic industry. It was examined whether other factors listed under the AD Rules could have contributed or are likely to contribute to the injury suffered by the domestic industry.

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

a. Volume and Price of Imports from Third Country

107. The imports of subject goods from sources other than subject country are below de minimis level or non-dumped or are subject to anti-dumping/anti-subsidy duties.

b. Contraction in Demand and / or Change in Pattern of Consumption

108. There is no contraction in demand for the product under consideration in India, except for period of investigation, that too due to COVID-19 pandemic.

c. Change in Pattern of Consumption

109. The pattern of consumption with regard to the product under consideration has not undergone any change. Therefore, changes in the pattern of consumption cannot be considered to have caused injury to the domestic industry.

d. Trade restrictive practices

110. There is no trade restrictive practice.

e. Development of Technology

111. Technology for production of the product concerned has not undergone any change. Thus, developments in technology cannot be regarded as a factor of causing injury to the domestic injury.

f. Export performance

112. The Authority has considered data for the domestic operations only for the injury analysis. Therefore, export performance is not the cause for the injury to the domestic industry.

J. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING AND INJURY

113. In a sunset review investigation, the Authority has to determine whether the subject goods are continuing to enter or likely to enter the Indian market at dumped prices and whether injury to the domestic industry is likely to continue or recur due to these dumped imports if the duty is removed.

Submissions made by the other interested parties

114. The submissions made by the other interested parties with regard to likelihood of injury are as follows:

- i. As per Article 11.3 of the AD Agreement, the Authority is not precluded from making separate likelihood determinations for individual exporters or producers in a sunset review and then continuing or terminating the relevant duty for each company according to the determination for that company. All the claims made by the applicant are merely allegations and nothing concrete has been placed on record to prove that the likelihood of dumping and injury is clearly foreseen and imminent.

- ii. ADD imposed by the Ministry of finance on 18.08.2017 has been in force for more than four years and the exporters from China PR have already found alternative markets for exporting the subject goods. Therefore, there is no likelihood of diversion of goods.
- iii. The Authority should use the data filed by participating producers/exporters to analyze surplus capacity available with the participating producers/exporters and not the generic data provided by the domestic industry in their petition.

Submissions made by the Domestic Industry

115. The submissions of the domestic industry with regard to likelihood of dumping and injury are as follows:

- i. The continued dumping, despite duties in force, clearly demonstrates that the dumping is only likely to continue if the duties are removed. This shows that the producers in the subject country have a tendency to resort to unfair pricing behavior.
- ii. China PR is the largest producer of glass and glass products, producing over 97 percent of the global output of subject goods in 2020. It is further submitted that China PR has the largest number of solar-glass production lines in the world. Total capacity of the subject goods in China PR was around *** MT in the year 2020 which is around 77 times of the total capacity of the domestic industry and around 131 times of the Indian production. The domestic industry has also provided the capacities in China PR and their comparison with the domestic capacities in India to give an insight into the potential danger of the dumped imports from China PR and the imminent likelihood of dumped imports into the country in large volumes.
- iii. The domestic industry from the Morgan Stanley Report has submitted that the Chinese manufacturers have huge idle capacities available with them. Since India is a growing market with substantial investments being made in the solar energy, it will always remain an attractive destination for countries with huge idle capacities. The domestic industry has provided the details of unutilized capacities in China, which is 41 times of Indian capacity and 70 times of Indian production. Since Ministry of Finance has imposed duties against Malaysia, with such idle capacities, Chinese producers will ramp-up their production to flood Indian market.
- iv. It is submitted that despite having huge idle capacity, producers in China PR have planned for extensive expansion of the existing capacities i.e., effective capacity from *** thousand MT in 2019 to *** thousand MT by 2025. This effectively means that Chinese producers will double their capacity in the next four years. It

is submitted that even if only 1% of the surplus capacity is diverted to India, the whole Indian demand can be catered by that small portion of Chinese capacity.

- v. The domestic industry has provided evidence that the exporters have huge exportable surplus capacity with them. Moreover, after imposition of anti-subsidy duty against imports from Malaysia, there is every likelihood that in the event duties are not extended, the Malaysian exports will find its way into Indian Market through China PR. Therefore, continuation of anti-dumping duties is very critical.
- vi. It is submitted that since India is a price sensitive market, this makes it more vulnerable to dumped and injurious imports. In such circumstances, withdrawal of anti-dumping duty in force will certainly lead to continuance or recurrence of dumping and injury to the domestic industry. There is every likelihood of huge potential imports once the duties are lifted.
- vii. In addition to India, exports of subject goods from China PR are subject to anti-dumping duties in European Union and Turkey. This limit the possibilities of the Chinese exporting producers to export to these countries and further increases the attractiveness of the Indian market. It is also important to note that with the focus of the Indian Government on solar energy, any revocation of duties against China PR will be detrimental to the Indian Industry.
- viii. The domestic industry has submitted that with huge exportable surplus capacity and duties against them in major markets, Chinese exporters will be waiting for single opportunity to flood key growing markets having increasing demand of subject goods like India. This further underlines the importance of extending the anti-dumping duties.

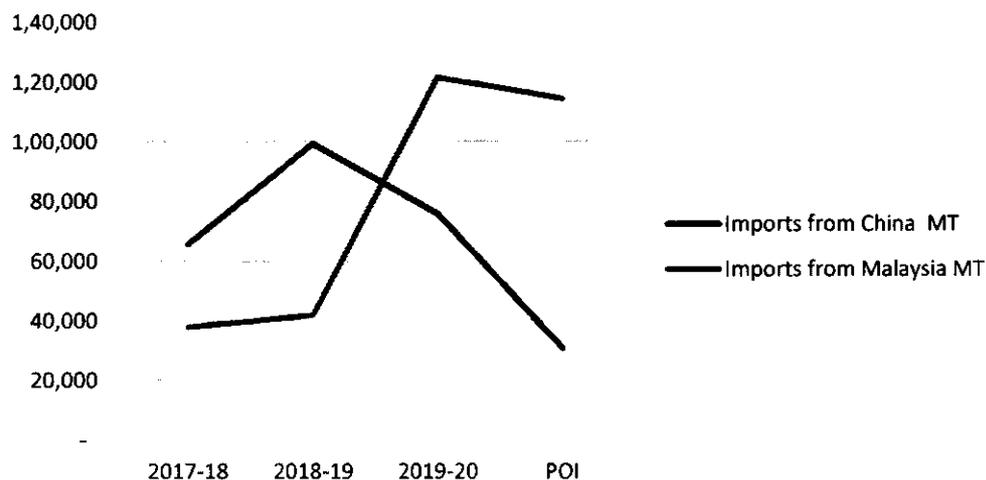
Examination by the Authority

- 116. The Authority observes that this is a sunset review investigation and the focus of this investigation is to examine the likely scenario of continued dumping and consequent injury if anti-dumping duties are to be allowed to expire even if there is no current injury. This also requires a consideration of whether the duty imposed is serving the intended purpose of eliminating injurious dumping.
- 117. All the factors brought to the notice of the Authority have been examined to determine whether there is likelihood of continuation or recurrence of dumping and injury in the event of cessation of the duty. The Authority has considered various information, as made available by the domestic industry and the other interested parties, in order to evaluate the likelihood of continuation or recurrence of dumping and injury.
- 118. There are no specific methodologies available to conduct such a likelihood analysis. However, clause (vii) of Annexure II of the Rules provides, inter alia, factors which are

relevant for threat of injury and the same factors may be used for likelihood analysis in a sunset review as well:

- i. A significant rate of increase of dumped imports into India indicating the likelihood of substantially increased importation.
 - ii. Sufficient freely disposable, or an imminent, substantial increase in, capacity of the exporter indicating the likelihood of substantially increased dumped exports to Indian markets, taking into account the availability of other export markets to absorb any additional exports.
 - iii. Whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices and would likely increase demand for further imports; and
 - iv. Inventories of the article being investigated.
119. Further, the Authority has also examined other relevant factors having a bearing on the likelihood of continuation or recurrence of dumping and consequent injury to the domestic industry. The examination of the parameters of likelihood is as follows:
- a. **Continued Dumping of Subject Goods**
120. The dumping of the subject goods has continued from China PR in spite of the duties in force. For the cooperative producers/exporters from China PR, the dumping margin and injury margin both are positive.
- b. **Behaviour of Chinese Producers/Exporters to Shift Exports from China PR to Malaysia Post Imposition of Duties Against China PR**
121. The domestic industry has claimed that Malaysian subsidiary (Xinyi Solar Malaysia) of the Chinese producer (Xinyi Group, China PR) started exporting the subject goods to India post imposition of the anti-dumping duties against China PR. This shows that in the event duties are not extended against China PR, Malaysian exports will find its way from China PR.

Imports from Malaysia and China



c. Imposition of Anti-dumping Duties by Other Countries

122. It is noted that apart from India, exports of subject goods from China PR are subject to anti-dumping duties in European Union and Turkey also.

d. Surplus Capacities with Participating Producers/exporters in the Subject Country

123. In the present sunset review investigation, there is decent participation by producers/exporters from China PR. So, information provided by the participating producers/exporters from China PR will give reasonable estimation about surplus capacities available in China PR for the subject goods. The Authority has analyzed the questionnaire response of the participating producers/exporters from the subject country to identify surplus capacities available for product under consideration with each participating producer/exporter.

124. Information with respect to surplus capacities during the POI in case of responding producers/exporters from subject country is given below:

Producer/Exporter	UOM	Capacity	Production	Capacity Utilisation (%)	Surplus Capacity (%)	Surplus Capacity Range
Anhui Flat Solar Glass Co. Ltd	M2	***	***	***	***	10-20
Zhejiang Jiafu Glass Co Ltd	M2	***	***	***	***	10-20
Flat Glass Group Co. Ltd.	M2	***	***	***	***	20-30
Henan	M2	***	***	***	***	0-10

Producer/ Exporter	UOM	Capacity	Production	Capacity Utilisation (%)	Surplus Capacity (%)	Surplus Capacity Range
Ancai Hi-Tech Co., Ltd						
Henan Ancai Photovoltaic Advanced Material Co., Ltd	M2	***	***	***	***	0-10
Shaanxi Topray Solar Co. Ltd	M2	***	***	***	***	10-20
Wujiang CSG Glass Co., Ltd	M2	***	***	***	***	10-20
Dongguan CSG Solar Glass Co., Ltd.	M2	***	***	***	***	10-20
Xinyi PV Products (Anhui) Holdings Limited	MT	***	***	***	***	-
Xinyi PV Products (Anhui) Holdings Limited Tianjin Branch	MT	***	***	***	***	10-20
Guangxi Xinyi Photovoltaic Industry Co., Ltd	MT	***	***	***	***	20-30

K. Conclusion on Likelihood of Dumping and Injury

125. Based on detailed examination, the Authority concludes that:

- i. The dumping has continued from the subject country and the dumping margin is quite significant. In fact, the dumping margin has increased during the POI of the sunset review investigation as compared to the original investigation.

- ii. The responses filed by the responding producers/exporters from the subject country show that there are significant unutilized capacities available with the producers/exporters in the subject country, sufficient enough to cater to the entire Indian demand.
- iii. One of the Chinese producers shifted its exports from China PR to Malaysia after imposition of anti-dumping duty on China PR. There is a likelihood that the quantum of imports coming from Malaysia would start coming from China PR in case the current anti-dumping duty against China PR is revoked.
- iv. Various parameters collectively and cumulatively thus establish that the subject imports are likely to increase significantly at dumped and injurious prices in Indian market in the event of cessation of existing anti-dumping duty leading to likelihood of continuation of dumping and injury to the domestic industry.

L. Post Disclosure Submissions

Submissions made by the other Interested Parties

126. Other interested parties have reiterated their submissions with regard to determination of normal value, export price, computation of NIP, injury and causal link and likelihood of continuation or recurrence of dumping and injury. Additionally, the following submissions have been made:
- a. Xinyi (Anhui) has filed Appendix 3C with the Authority in January 2022. Therefore, the Authority has wrongly rejected the questionnaire response of Xinyi Group and acted in contradiction to the Para 5 of the Annexure II of Anti-Dumping Agreement.
 - b. There are no surplus capacities available with the Xinyi Group. Moreover, as per the consistent practice, there is no evidence that the surplus capacities will be diverted to the Indian market. Accordingly, it is requested that their idle capacities should not be considered while determining likelihood of duties. It is further submitted that the domestic industry is suffering injury due to their capacity expansion.
 - c. The Authority has arbitrarily considered 22% on ROCE for computing NIP and therefore, the Authority should revisit their calculation.
 - d. ACPM has filed Appendix 3C with the Authority. Therefore, the Authority has wrongly rejected the questionnaire response of Henan Ancai Hi-Tech Co., Ltd. (ACHT) and Henan Ancai Photovoltaic Advanced Material Co., Ltd. (ACPM).

- e. Imports from China PR have declined during the injury investigation period and imports from both Malaysia and China PR put together have declined in relation to demand during the injury investigation period.
- f. Economic parameters of domestic industry such as capacity, production, sales, market share, wages, inventory etc. have shown improvement during the injury investigation period and therefore overall assessment of performance of the domestic industry shows that it is not suffering any injury and there is no likelihood of injury.
- g. Post POI data of domestic industry should be analyzed to determine the likelihood of injury to the domestic industry.

Submissions made by the domestic industry

127. The domestic industry has reiterated its earlier submissions with regard to likelihood of continuation or recurrence of dumping and injury as well as public interest. In addition, the domestic industry has submitted as follows in its comments to the disclosure statement:
- a. The Authority should confirm the margins determined in the disclosure statement in the final findings as well. Extension of anti-dumping duty is necessary because despite duties exporters are continuing to dump the subject goods in India at injurious price. The Authority should recommend duties based on the current dumping/injury margins.
 - b. After imposition of anti-dumping duty on China PR, one of the Chinese producers started exporting the product concerned from its related company in Malaysia. Duties were levied against Malaysia only in 2021. Extension of current anti-dumping duty against China PR is very critical, otherwise injury to the domestic industry will continue.
 - c. The Authority has rightly rejected the responses of the non-cooperative producers / exporters, namely, Henan Ancai Group and Xinyi Group, as they have failed to fully cooperate in the investigation process. Moreover, the said rejection is in line with the consistent approach of the Authority.
 - d. The Authority has rightly constructed the normal value as none of the Chinese producers/exporters have claimed market economy treatment in terms of para 8 of Annexure I of the Rules, nor they have filed the Supplementary Questionnaire response prescribed for this purpose. Under the circumstances, the determination of normal value of the Chinese exporters in terms of Para 7 of Annexure I of the Rules, is correct and also in accordance with the consistent practice of the Authority.

Examination by the Authority

128. The Authority notes that some of the submissions by the domestic industry and the other interested parties are repetitive in nature. These submissions have already been examined

at appropriate places in the final findings. The Authority has examined the additional submissions of the interested parties as under:

- a. With regard to the submissions made by Xinyi Group regarding the incorrect rejection of their questionnaire response, the Authority has already given detailed reasoning for not accepting the questionnaire response submitted by Xinyi Group in the section relating to the determination of normal value, export price and dumping margin. The Authority has noted several reasons for rejecting the questionnaire response filed by Xinyi Group. In the disclosure comments, Xinyi Group has not provided any clear explanation in response to the reasons noted by the Authority in the disclosure statement for rejecting their questionnaire response. One of the several reasons noted by the Authority for rejecting the questionnaire response filed by Xinyi Group was non-furnishing of Appendix 3C by Xinyi (Anhui) showing the price at which Xinyi (Anhui) has sold the subject goods to its related trader Xinyi (Hong Kong). Even though it has been claimed in the disclosure comments filed by Xinyi Group that they have submitted Appendix 3C to the Authority but the Authority has not received any Appendix 3C from Xinyi Group showing the price at which Xinyi (Anhui) has sold the subject goods to its related trader Xinyi (Hong Kong) either in the original questionnaire response filed on 28th July 2021 or by 31st December 2021, which was the due date for submitting reply to deficiency letter issued to Xinyi Group.
- b. With regard to the submission that Authority has arbitrarily considered 22% ROCE for computing NIP, it is noted that the NIP has been determined by the Authority as per the guidelines given in Annexure-III of the Anti-dumping Rules and as per its consistent practice.
- c. With regard to the submissions made by ACPM and ACHT regarding the incorrect rejection of their questionnaire response, the Authority has already given detailed reasoning for not accepting the questionnaire response submitted by ACPM and ACHT in the section relating to the determination of normal value, export price and dumping margin. The Authority has noted several reasons for rejecting the questionnaire response filed by ACPM and ACHT. In the disclosure comments, ACPM and ACHT have not provided any clear explanation in response to the reasons noted by the Authority in the disclosure statement for rejecting their questionnaire response. One of the several reasons noted by the Authority for rejecting the questionnaire response filed by ACPM and ACHT was non-furnishing of Appendix 3C by ACPM showing the price at which ACPM has sold the subject goods to its related producer/trader ACHT. It has been claimed in the disclosure comments filed by ACPM and ACHT that they have submitted Appendix 3C of ACPM to the Authority on 14th May 2022 and that all the information required by the Authority for calculating dumping margin and injury margin was on record of the Authority. This claim cannot be correct because the disclosure statement was issued on 5th May 2022 and the comments on disclosure statement were filed on 10th May 2022 by ACPM and ACHT. In fact, Appendix 3C was submitted by ACPM for the first time only on 14th April 2022, more than eight months after the due date i.e., 28.07.2021 of filing the exporter questionnaire response. Also, Appendix 3C filed on 14th April, 2022 did not contain the complete information. In view of the facts

narrated above the Authority confirms its conclusion regarding rejection of questionnaire response filed by ACPM and ACHT.

- d. With regard to the submissions made by interested parties regarding no injury being suffered by the domestic industry, the Authority notes that it has already conducted a detailed injury and likelihood examination. The Authority acknowledges the fact that after the imposition of anti-dumping duty on China PR, one of the Chinese producers has started exporting from its related company in Malaysia. Consequently, the imports from Malaysia increased manifold in the previous years. To tackle this situation, the Authority, on the request made by the domestic industry, imposed countervailing duty on the subject goods imported from Malaysia in 2021. Thus, it is quite likely that in the event of withdrawal of the present anti-dumping duty against China PR, the related company of Chinese producer in Malaysia may start exporting subject goods to India through China PR.
- e. With regard to examination of the post POI period, Authority notes that it is not compulsorily required to examine post POI period in every sunset review investigation. In fact, Authority has not examined post POI period in a number of sunset review investigations. In the present case, the information for the injury investigation period including the POI is sufficient enough to show that there is a likelihood of continuation or recurrence of dumping and injury to the domestic industry, if the duties are allowed to expire.

M. INDIAN INDUSTRY'S INTEREST AND OTHER ISSUES

129. The Authority notes that the purpose of anti-dumping duty, in general, is to eliminate injury caused to the domestic industry by the unfair trade practices of dumping so as to establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Continuation of anti-dumping measures does not aim to restrict imports from the subject country in any way. The Authority recognizes that the continuation of anti-dumping duties might affect the price levels of the product in India. However, fair competition in the Indian market will not be reduced by the imposition of anti-dumping measures. On the contrary, continuation of anti-dumping measures would ensure that no unfair advantages are gained by resorting to the practice of dumping.
130. The Authority considered whether continuation of anti-dumping shall have any adverse impact on the interest of the public. In order to determine such impact, the Authority weighed the impact of the continuation of duties on the availability of the goods in the Indian market, the impact on the users of the product as well as the domestic industry and the impact on the general public at large.
131. It is noted that after initiation of investigation views from all interested parties were invited including importers, consumers and others. The Authority also issued questionnaire for the users/ user association to provide relevant information with regard to present investigation including any possible effects of anti-dumping duty on their operations. It is noticed that none of the users / user association have made any submissions or provided evidence that can be considered as relevant. On the contrary,

domestic industry has provided information to show that there will be no adverse impact of continuation of anti-dumping duty on the users of the subject goods.

132. The Authority has also noted that the effect of anti-dumping duties measures on public interest is commonly studied from the perspective of the producers, the consumers.
- a. It is noted that the imposition of anti-dumping duties on imports of subject goods would be in the interest of domestic producers of the subject goods in India. The measures would prevent further injury to the domestic industry and give time to them to compete against the exporters from the subject country.
 - b. The Authority has also analyzed the effect of continuation of anti-dumping duties from the consumer's point of view and observed that it would be in the interest of domestic consumers of subject goods to have reliable Indian domestic producers capable of competing with foreign producers. This is possible when the domestic producers are able to recover from the injury suffered due to the imports. If the current situation is allowed to continue, the Indian domestic producer would face further injury giving foreign producers increased leverage as against domestic producers. Further, if the domestic industry is allowed to suffer, it will eventually be wiped out and the consumers will be again left at the mercy of the imported goods.
 - c. The Authority has analyzed the impact of continuation of anti-dumping duties on public at large. The Authority notes that no user / user association has participated in the sunset review whereas number of users participated in the original investigation. This is possible when the users are not feeling the impact of anti-dumping duties on their ultimate product. It is noted that the domestic industry has claimed that the TTG constitute only 4 % cost of the solar module.
And therefore, the end consumer of subject goods will not face any significant increase in prices due to continuation of anti-dumping duty.

N. CONCLUSION

133. Having regard to the contentions raised, information provided, submissions made and facts available before the Authority as recorded in these findings and on the basis of the determination of dumping, injury and likelihood of continuation or recurrence of dumping and injury, the Authority concludes that:
- a. The applicant domestic producer constitutes domestic industry under Rule 2(b) of the Rules and the application filed by them satisfies the criteria of standing in terms of Rule 5(3) of the Rules.
 - b. The product under consideration continues to be exported to India at prices below normal value resulting in continued dumping. The volume of imports from China PR is likely to increase significantly, considering the dumped and injurious price at which goods have been exported from the subject country, high export orientation of producers/exporters and significant surplus capacities with producers/exporters in the subject country.

- c. Imports from the subject country were significantly undercutting the domestic industry prices & the domestic industry has suffered depressing or suppressing effect on its prices. Further, the injury margin / price underselling is also significantly positive clearly indicating significant price effect on the domestic industry.
- d. The domestic industry has been constantly suffering losses due to price effect of dumped imports from China PR and also imports coming from related company of one of the Chinese producers in Malaysia.
- e. In the event of expiry of anti-dumping duty, there is a clear likelihood of dumping of the subject goods in significant volumes and consequent injury to the domestic industry. China PR is one of the largest producers of the subject goods. There are admittedly significant unutilized capacities in the subject country, fraction of which is sufficient to cater to entire Indian demand.
- f. There is likelihood of continuation of dumping and injury to the domestic industry considering (i) significant surplus capacity with producers/exporters in China PR, (ii) high export orientation of the Chinese producers/exporters (iii) continued dumping of subject goods from China PR despite imposition of anti-dumping duty (iv) price attractiveness of Indian market (v) significant price effect on domestic industry due to imports of subject goods from subject country and (vi) trade remedial measures imposed by other WTO member countries on imports of subject goods from China PR.

O. RECOMMENDATIONS

- 134. The Authority notes that the sunset review was initiated and notified to all the interested parties and adequate opportunity was given to all the interested to provide information on the aspects of dumping, injury and causal link and the likelihood of continuation or recurrence of dumping and injury. Having initiated and conducted the sunset review into dumping, injury and causal link and the likelihood of continuation or recurrence of dumping and injury in terms of the provisions laid down under the rules, the Authority is of the view that continued imposition of anti-dumping duty is required on the subject goods from the subject country.
- 135. Under these circumstances, the Designated Authority considers it appropriate to recommend continuation of anti-dumping duty on the imports of subject goods from the subject country for further period of two (2) years from the date of notification to be issued in this regard by the Central Government. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of anti-dumping duty equal to the lesser of margin of dumping and margin of injury, so as to remove the injury to the domestic industry. Accordingly, the Anti-dumping duty equal to the amount indicated in Column 7 of the table below is recommended to be imposed by the Central Government on the imports of the goods described in Column 3 of the table below originating in or exported from the subject country for a period of two (2) years from the date of notification to be issued in this regard by the Central Government.

DUTY TABLE

S. No.	Sub-Heading or Tariff Item	Description of Goods	Country of Origin	Country of Export	Producer	Amount	Unit	Currency
1	2	3	4	5	6	7	8	9
1.	70071900	Textured Toughened (Tempered)Coated and Uncoated Glass*	China PR	Any country including China PR	Flat Glass Group Co., Ltd.	192.82	MT	USD
2.	-do-	-do-	China PR	Any country including China PR	Anhui Flat Solar Glass Co., Ltd.	192.82	MT	USD
3.	-do-	-do-	China PR	Any country including China PR	Zhejiang Jiafu Glass Co., Ltd.	192.82	MT	USD
4.	-do-	-do-	China PR	Any country including China PR	Shaanxi Topray Solar Co. Ltd	253.39	MT	USD
5.	-do-	-do-	China PR	Any country including China PR	Wujiang CSG Glass Co., Ltd	226.37	MT	USD
6.	-do-	-do-	China PR	Any country including China PR	Dongguan CSG Solar Glass Co., Ltd.	226.37	MT	USD
7.	-do-	-do-	China PR	Any country including China PR	Any producer other than those mentioned at S. Nos. 1, 2, 3, 4, 5 & 6	302.65	MT	USD
8.	-do-	-do-	Any country other than	China PR	Any	302.65	MT	USD

			China PR					
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*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.

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

P. FURTHER PROCEDURE

136. 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 provisions of the Customs Tariff Act, 1975.


(Anant Swarup)
Designated Authority