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F. No. 7/10/2025-DGTR
Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Trade Remedies
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NOTIFICATION

(Final Findings)

Date: 03rd March, 2026

Case No. CVD (SSR) – 01/2025

Subject: Final Finding in Sunset Review investigation of Countervailing Duty/ Anti-subsidy concerning imports of "Textured Tempered Glass'" originating in or exported from Malaysia.

F. No. 7/10/2025-DGTR: - Having regard to the Customs Tariff Act 1975 as amended from time to time (hereinafter referred to as the 'Act') and the Customs Tariff (Identification, Assessment and Collection of Countervailing Duty on Subsidized Articles and for Determination of Injury) Rules, 1995 thereof, as amended from time to time (hereinafter referred as the 'Anti-Subsidy Rules' or the 'Rules' (hereinafter referred to as "CVD Rules");

A. BACKGROUND OF THE CASE

1. M/s Borosil Renewables Limited (BRL) and Vishakha Glass Pvt. Ltd. (VGPL) (hereinafter also referred to as "the domestic industry" or "the applicants") 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-subsidy Duty on subsidized Articles and for Determination of Injury) Rules, 1995, as amended from time to time (hereinafter referred as the 'Rules') for sunset review of anti-subsidy investigation concerning the imports of Textured Tempered Coated and Uncoated Glass (hereinafter referred as the "subject goods" or the "product under consideration or PUC"), originating in or exported from Malaysia (hereinafter referred to as the "subject country").

2. The original anti-subsidy investigation into imports of the subject goods was initiated vide Notification No. 06/13/2019-DGAD dated 12.09.2019. Following a detailed investigation, the Authority concluded that (i) the government of the subject country was providing

various subsidies to the producers of subject goods; (ii) the subsidies were countervailable in nature under CVD Rules; and (iii) imports of the subsidised subject goods were causing injury to the domestic industry. Therefore, the Authority recommended imposition of countervailing duties on the imports of subject goods *vide* Notification No. 06/13/2019 dated 11.12.2020. On the basis of the positive recommendation, following definitive countervailing measures were imposed by the Ministry of Finance vide Notification No. 3/2021-Customs (CVD) dated 9.3.2021 and the measures were imposed till 8th June, 2026.

S. No.	Producers	Duty Amount as % of CIF value
1	M/s Xinyi Solar Sdn. Bhd., Malaysia	9.71%
2	All Others	10.14%

3. The applicants have alleged likelihood of continuation or recurrence of subsidisation of subject goods, originating and exported from the subject country and consequent injury to the domestic industry and has requested for review and continuation and enhancement of the anti-subsidy duty imposed on the imports of the subject goods, originating in or exported from the subject country.

4. In terms of Section 9(6) of the Customs Tariff Act, 1975 and Rule 24(3) of the Customs Tariff Rules, 1995 countervailing duties 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 countervailing duties is likely to lead to continuation or recurrence of subsidized imports.

5. The applicants filed an application on behalf of the domestic industry, in accordance with the Act and the Rules, requesting a sunset review of the countervailing duties on imports of subject goods originating in and exported from Malaysia. The applicants have sought continuation of the countervailing duties levied on imports of the subject goods on the grounds that expiry of the duties is likely to result in continuation of subsidized subject imports and consequent injury to the domestic industry. Further, the applicants have sought enhancement of duties.

6. The Authority examined the application filed on behalf of the domestic industry and found prima facie evidence of likelihood of continuation/recurrence of subsidization and consequent injury to the domestic industry. Consequently, in accordance with the Rules, the Authority initiated the subject investigation vide Notification No. 07/10/2025-DGTR, dated 24.6.2025, published in the Gazette of India (Extraordinary), to review the need for continued imposition and enhancement of the countervailing duties in respect of the subject goods, and to examine whether the expiry of the said duties is likely to lead to continuation of subsidisation and injury to the domestic industry. Countervailing duty was extended by MOF on the recommendations of DGTR vide Notification No. 07/2025-Customs (CVD), and duty is effective till 8th June 2026.

7. The scope of the present review covers all aspects of the aforementioned original investigation concerning the subject goods.

B. PROCEDURE

8. The procedure described below has been followed with regard to the investigation:

8.1 Initiation

a. The Authority issued a public notice dated 24th June 2025, published in the Gazette of India, Extraordinary, initiating the anti-subsidy investigation concerning the imports of the subject goods from the subject county.

b. The Authority sent a copy of the initiation notification to the government of the subject country, through their embassy in India, known producers and exporters from the subject country, known importers/users, the domestic industry, the other Indian producers as well as other interested parties, as per the addresses made available by the applicant and requested them to make their views known in writing within the prescribed time limits.

8.2 Circulation of non-confidential version of the application

a. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters and to the governments of the subject country, through their embassy in India, in accordance with Rule 7(3) of the Rules. A copy of the non-confidential version of the application was provided to other interested parties, wherever requested.

8.3 Participation by Exporters of Subject Country

a. The Authority sent an Exporter's Questionnaire to exporters in subject country to elicit relevant information in accordance with Rule 7(4) of the Rules:

b. The embassy of the subject country in India was requested to advise the exporters/producers from their country to respond to the questionnaire within the prescribed time limit.

c. In response, the following producers/exporters from the subject country have responded by filing questionnaire responses:

(i) Xinyi Solar (M) SDN. BHD,
(ii) SBH Kibing Solar New Materials (M) SDN. BHD.

8.4 Participation by Importers/Users

a. The Authority sent Importer's Questionnaire to the following known importers/users of the subject goods in India calling for necessary information in accordance with Rule 7(5) of the Rules.

(i) Mundra Solar PV Limited
(ii) Swelect Energy Systems Limited
(iii) Premier Energies Limited
(iv) Renewsys India Private Limited
(v) Goldi Solar Private Limited
(vi) Waaree Energies Limited
(vii) Alpex Exports Pvt Ltd
(viii) Vikram Solar Pvt Ltd
(ix) Emmvee Photovoltaic Power Pvt Ltd
(x) Navitas Green Solutions Pvt Ltd
(xi) Sova Power Limited

b. The following importers / users / consumers has filed the questionnaire response. The Authority has also considered their submissions accordingly.

i. Navitas Green Solutions Pvt. Ltd,
ii. Solex Energy Limited,
iii. Reliance Industries Limited.

8.5 Period of Investigation and Injury Period

a. The period of investigation (POI) for the purpose of the present investigation is 1st January 2024 to 31st December 2024 (12 months). The examination of trends in the context of injury analysis covers a period of FY 2021-22, FY 2022-23, FY 2023-24 and the period of investigation.

8.6 Further procedures

a. The Authority made available the non-confidential version of the submissions made by the various interested parties. A list of all the interested parties was uploaded on the DGTR website along with the request to all of them to email the non-confidential version of their submissions to all the other interested parties.

b. Request was made to the DG System to provide the transaction-wise details of imports of the subject goods for the injury period and also the period of investigation. The Authority has relied upon the DG System data for computation of the volume of imports and required analysis after due examination of the transactions.

c. The non-injurious price (NIP) based on the optimum cost of production and cost to make & sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) and Annexure-III to the AD Rules has been worked out so as to ascertain whether

anti-subsidy duty lower than the subsidy margin would be sufficient to remove injury to the domestic industry.

d. Physical inspection through on-spot verification of the information provided by the applicant domestic industry and exporters, to the extent deemed necessary, was carried out by the Authority. Only such verified information with necessary rectification, wherever applicable, has been relied upon for the purpose of present findings.

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

f. Information provided by the interested parties on a confidential basis was examined with regard to the sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on a confidential basis were directed to provide sufficient non-confidential version of the information filed on a confidential basis.

g. In accordance with Rule 7(6) of the Rules, the Authority provided the opportunity to all interested parties to present their views orally in the oral hearings held on 28.10.2025 and 04.12.2025, which was attended by interested parties. All the parties who presented their views in the oral hearing were requested to file written submissions of these views. Non-confidential versions of the written submissions were circulated to the interested parties, and an opportunity was given to them to submit rejoinder submissions, if any.

h. 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 the views/observations on the basis of the facts available.

i. The Authority provided time for providing comments on PUC/PCN. However, none of the interested parties provided any cogent submissions and therefore, no change in the product was made.

j. The Authority has considered all the arguments raised and information provided by all the interested parties, to the extent the same are supported with evidence and considered relevant to the present investigation. The Authority has examined the evidentiary documents submitted by the interested parties, which has formed the basis for conclusions for the present findings.

k. A Disclosure statement was issued to interested parties on 18th Feburary,2026 containing essential facts under consideration of the Designated Authority, giving time up to 25th February 2026 to furnish comments, if any, on the Disclosure Statement. The authority has considered post disclosure comments received from interested parties appropriately in the present final findings.

l. '***' in this notification represents information furnished by an interested party on a confidential basis and so considered by the Authority under the Rules.

m. The exchange rate adopted by the Authority for the subject investigation is 1 US$ = ₹ 84.58.

C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

9. The Authority, at the stage of the initiation notification, defined the product under consideration as follows:

3. "The product under consideration in the present application is "Textured Toughened (Tempered) Glass with a minimum of 90.5% transmission having thickness not exceeding 4.2 mm (including tolerance of 0.2 mm) and where at least one dimension exceeds 1500 mm, whether coated or uncoated" (hereinafter referred to as the "subject goods" or the "Product under Consideration"). The minimum level of transmission required in the subject good can be achieved by keeping the iron content low, typically less than 200 ppm. The transmission level goes up by about 2%-3% when coated with an anti-reflective coating liquid. The glass whether coated or uncoated is tempered / toughened in a tempering furnace, as it is essential for solar applications. The product in the market parlance is also known by various names such as Solar Glass, Low Iron Solar Glass, Solar Glass Low Iron, Solar PV Glass, High Transmission Photovoltaic Glass, Tempered Low Iron Patterned Solar Glass etc.

4. The subject goods are 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. The glass used in these applications as per current trend is from 2MM to 4 MM in thickness. Size of the subject goods depends upon the purpose and module size. The glass is cut in various sizes as per customer requirement before tempering as such or after coating. Since this is the sunset review investigation, the product remains the same as was defined by the Authority in the final findings.

5. The subject goods are classified under chapter heading 70071900. However, it has been claimed by the Domestic Industry that the subject goods are also being imported under various other tariff headings like 70031990, 70051010, 70051090, 70052190, 70052990, 70053090, 70071900 etc. It is clarified that the HS codes are only indicative, and the product description shall prevail in all circumstances."

C.1 Submissions made on behalf of the other interested parties.

10. Other interested parties have not made any submission on the scope of the Product under consideration and like article.

C.2 Submissions made by the domestic industry.

11. The domestic industry made the following submissions with regard to the scope of the product under consideration and the like article:

a. The product under consideration 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 Malaysia.

b. 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, Heat Strengthen 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.

c. Domestic industry has also requested that the Authority should clarify that product under consideration is also known as Heat Strengthened Glass in the market parlance. Domestic Industry has also submitted that the Authority has considered Heat Strengthened Glass, as one of the commercial names in the recently concluded anti-dumping and anti-subsidy investigations concerning product under consideration against China and Vietnam. Moreover, there even no challenge has been raised against that determination. Therefore, there is no reason legal or otherwise for not mentioning Heat Strengthened Glass, in the final findings.

d. The subject products are predominantly imported under tariff classification at the 8-digit level, i.e. 70071900 even though the same are being classified and imported under various subheadings of the Customs Tariff Act, 1975, as can be seen from the import data. However, it is noted that 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, it is binding upon the product scope and the product description prevails in circumstances of conflict.

e. There is no known difference in the subject goods produced by the domestic industry and those imported from the subject country. 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 applicants 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.

C.3 Examination by the Authority.

12. The submissions made by the Domestic Industry with regard to the PUC related issues are examined and addressed hereunder:

13. The product under consideration in the present investigation was, at the stage of initiation, defined as '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 and there is no change in the scope of the product under consideration. The PUC 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.

14. The PUC is also known by various other names such as solar glass, solar glass low iron, solar PV glass, high transmission photovoltaic glass, tempered low iron patterned solar glass etc. The Domestic Industry has submitted that Heat Strengthened Glass is merely other name of PUC in the market parlance and no other interested parties protested for its clarification. The Authority analyzed all the submissions and material on record, there is no change in the scope of the product under consideration defined in the original investigation. Further, merely clarifying any name based on market parlance, does not modify the scope of the product under consideration. It also needs to be appreciated that any products to be classified as product under consideration, must pass the scope of the product under consideration. For instance, if any glass meets all the criteria (such as textured, toughened, having minimum of 90.5% transmission, thickness not exceeding 4.2 mm, whose at least one dimension exceeds 1500 mm with or without coating) then only, it can be considered as product under consideration irrespective of any name or understanding. In view thereof, the Authority clarifies that Heat Strengthened Glass is merely one of the names of the product under consideration, as defined in the PUC of the original investigation.

15. The product under consideration is classified under the category 'Glass and Glassware' in Chapter 70 of the Customs Tariff Act, 1975 and further under 7003, 7005, 7007, 7016, 7020 and 8541 as per Customs Classification. However, Customs classification is indicative only and not binding on the scope of the investigation.

16. The Authority notes that there is no known difference in product under consideration produced by the Indian industry and exported from the subject country. Product under consideration produced by the Indian industry and imported from the subject country 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. Thus, the Authority holds that the subject goods produced by the domestic industry are like article to the product under consideration imported from subject country in accordance with the Anti-Subsidy Rules.

D. SCOPE OF THE DOMESTIC INDUSTRY AND STANDING

D.1 Submissions made on behalf of the other interested parties.

17. The other interested parties have made the following submissions with regard to the scope of domestic industry and standing:

    a. That while the applicants collectively meet quantitative requirements, however, one of the applicants namely, Vishakha recently commenced production and was not part of prior investigations and therefore, the Authority should verify standing and assess injury parameters separately for each entity.

D.2 Submissions made on behalf of the domestic industry.

18. The submissions of the domestic industry with regard to the scope of domestic industry and standing are as follows:

    a. That the present application has been filed by Borosil Renewables Limited (BRL) and Vishakha Glass Private Limited (VGPL). They are the major producers of the subject goods in India.

    b. The applicants have not imported the subject goods from the subject country and they are not related to any exporter of the subject goods in the subject country or importer of the subject goods in India.

D.3 Examination by the Authority

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

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

20. The Authority notes that the application has been filed by Borosil Renewables Limited (BRL) and Vishakha Glass Private Limited (VGPL). It is further noted that apart from applicant industry, there are 3 other producers namely Govind Glass & Industries Ltd, Triveni Renewables Private Ltd. and Gold Plus Float Glass Pvt. Ltd. who are producing the subject goods.

21. The Authority further notes that the applicants have not imported the subject goods from the subject country and that it is not related to any exporter of the subject goods in the subject country or importer of the subject goods in India. Further, the production of the

applicants account for a major proportion of the total domestic production. Thus, the Authority holds that applicants constitute domestic industry as defined under Rule 2(b) of the Anti-Subsidy Rules, and the application satisfies the requirement of standing in terms of Rule 6(3) of the Anti-Subsidy Rules.

22. Nevertheless, under the Customs Tariff (Identification, Assessment and Collection of Anti-Subsidy Duty on Subsidized Articles and for Determination of Injury) Rules, 1995, the requirement of standing of the domestic industry is specifically provided under Rule 6(3), which applies at the stage of initiation of an original investigation. Further, Rule 24(5), which governs the conduct of a sunset review, provides for mutatis mutandis application of the Rules excluding the entirety of Rule 6. Consequently, the standing requirement contained in Rule 6(3) does not apply to sunset review proceedings.

E. CONFIDENTIALITY AND MISCELLANEOUS ISSUES

E.1 Submissions made on behalf of the other interested parties.

23. The other interested parties have made the following miscellaneous submissions:

a. That the trade remedial measures on imports of textured tempered glass have been in place for over a decade. This prolonged reliance undermines the incentive for the domestic industry to improve efficiency and adapt to market changes, fostering dependency instead of competitiveness. It is further submitted that even WTO principles discourage the indefinite extension of trade remedies. Such prolonged measures distort market dynamics and reduce innovation, while unfairly impacting downstream industries dependent on imports.
b. It was also submitted that the Domestic Industry in previous investigations failed to prove that imports caused material injury to the domestic industry.
c. That responses filed by the exporters as well as the Government of Malaysia have been filed properly in terms of the practice of the Authority and therefore, responses cannot be ignored or rejected by the DGTR.
d. That the Domestic Industry has claimed unwarranted confidentiality and their non-confidential version is in stark violation of the practice followed by the DGTR.

E.2 Submissions made on behalf of the domestic industry.

24. The submissions of the domestic industry with regard to the miscellaneous submissions are as follows:
    a. That none of the participating interested parties have filed proper non-confidential version of the submissions and this has severely affected the rights of the Domestic Industry to defend its right.
    b. In relation to the issue of history of cases, Domestic Industry submitted that the history of the previous cases, that too, against different sources altogether, is of no legal or factual relevance to the fact of this case. The Authority is required only to see whether a case for imposition of anti-subsidy duties / extension of anti-dumping / subsidy duties is made out in the facts and circumstances of the case. It is further

submitted that the previous measures are of no consequence in the present case, if the exporters are getting subsidy, then the domestic industry has no other option but to seek remedy under the laws of the land for appropriate relief. Since the exporters has not disputed receipt of benefit, the domestic industry has all the rights to seek protection against such practices.

c. In relation to submission of interested parties in the previous investigations, the Authority has not found any injury, the domestic industry submitted that at a mere glance of the previous investigations against China and Malaysia, it would be clear to interested parties that the Authority has found injury in all the cases. However, against Malaysia, the Authority did not find any dumping and therefore, no duties were imposed against it.

d. In relation to submission of excessive confidentiality by the Domestic Industry, it is submitted that the Domestic Industry has filed its non-confidential version in terms of the applicable Trade Notices and practice of the DGTR.

E.3 Examination by the Authority

25. With regard to confidentiality of information, Rule 8 of Anti-subsidy Rules provides as follows:

Confidential information:

(1) Notwithstanding anything contained in sub-rules (1), (2), (3) and (7)of rule 7, sub-rule(2) of rule 14,sub-rule(4) of rule 17 and sub-rule (3) of rule 19, the copies of applications received under sub-rule (1) of rule 6, 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-rate (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.'

26. Submissions made by the domestic industry and other opposing interested parties with regard to confidentiality to the extent considered relevant were examined by the Authority and addressed accordingly. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were

directed to provide sufficient non-confidential version of the information filed on confidential basis. The Authority made available the non-confidential version of the evidences submitted by various interested parties in the form of public file. The Authority also notes that all interested parties have claimed their business-related sensitive information as confidential.

27. It has been argued that the countervailing duty has remained in force for a considerable period. In this context, the Authority notes that the present investigation is a sunset review, in which the Authority examines the likelihood of continuation or recurrence of subsidization and injury, as sought by the applicant. An extension of the duty is recommended only if positive evidence establishing such likelihood is found. Further, where producers in the exporting country continue to benefit from subsidies provided by their government, the Domestic Industry retains the right to seek protection against subsidized imports. The Authority has conducted the present investigation in strict accordance with the provisions of the Anti-Subsidy Rules. The Authority also notes that the Domestic Industry is fully entitled to avail legal remedies and protection where it is established that exporters from any country are engaged in practices causing injury to the Domestic Industry.

SECTION – II

F. Determination Of Subsidy And Subsidy Margins

28. The producers and exporters from Malaysia were advised to file response to the questionnaire and were given adequate opportunity to provide verifiable evidence on the existence, degree and effect of alleged subsidy programs for making an appropriate determination of existence and quantum of such subsidies, if any.

29. The following producers/exporters from Malaysia, including the Governments of Malaysia, have filed questionnaire responses:

i. M/s Xinyi Solar (Malaysia) SDN BHD

ii. SBH Kibing Solar New Materials (M) SDN. BHD.

General overview of the alleged Subsidy Programs

F.1 Submissions made by the domestic industry

30. The domestic industry has made the following submissions with regard to the subsidy and subsidy margin:

a. There is sufficient evidence showing that exporters/ producers/ their affiliates of the subject goods in the subject country have benefited from various countervailable subsidy programs.
b. Government of subject country has not filed a response/ nor provided any meaningful information. Only the government can provide detailed information related to whether the said scheme is countervailable or not. The responding exporter can only provide information whether any benefit was received or not. In other jurisdictions, where the Government of the exporting country does not cooperate, the investigating authorities rely on the facts available and determine the countervailability of the schemes.
c. It is submitted that the exporters from Malaysia as well as the Government of Malaysia have failed to respond to the questionnaire issued by the Authority in proper manner. They have either refused to provide the information relating to new schemes or have omitted to provide the same. It is respectfully submitted that such refusal to provide the information concerning new subsidy schemes or the omission thereto constitutes non-cooperation by the respective parties within the framework of the Rules.
d. As contained in the initiation notification as well as held by the Authority in the past cases, any new scheme introduced in Malysia is very well within the purview of the sunset review investigation. Therefore, it is not open for the Malaysian government

to deliberately refuse the information regarding the new schemes. The Malaysian government as well as the exporters from Malaysia have to be considered as non-cooperative parties.

e. It is respectfully submitted that under the Agreement on Subsidies & Countervailing Measures as well as the Indian anti-subsidy laws, the government of any investigated country is as much an interested party as any other exporter, importer etc. Hence, the failure on the part of the Malaysian government has to be necessarily treated as a deliberate attempt to impede the investigations. Thus, the exporter also has to be treated as non-cooperative and face the consequence of deliberate non-cooperation by their government.

f. Assuming without accepting that some of the relevant subsidy schemes have actually ceased to exist, the same does not exclude the possibility or re-branding or renaming of such subsidy schemes or the continued impact of the benefits derived. It was critical for the exporters as well as the Government of Malaysia to forthrightly inform the Authority about any new subsidy scheme that may have been introduced in Malaysia. However, their denial to fully cooperate with the Authority by withholding such information makes it extremely likely that new measures may have been implemented in the subject country providing financial assistance to the exporters in the form of actionable/prohibited subsidies.

g. As regards the allegation that the Domestic Industry has not disclosed all relevant documents to substantiate subsidization, it is submitted that the subsidization in the subject country stands substantiated in the original investigation itself. Further, such contention is based on incorrect understanding of legal threshold required to be met with by the domestic industry. In terms of the settled legal position, the domestic industry is only required to demonstrate a prima-facie case for initiation of the investigation and it is upon the relevant government and exporters to refute the contentions of the domestic industry. It is submitted that the legal thresholds for specificity, benefit, and injury nexus have been met by the domestic industry's evidence confirming subsidization and its injurious effect.

h. As per the information available in public domain, there are certain benefits available to the exporters of the subject goods in Malaysia. The government of Malaysia has also extended certain benefits to participating exporters also. Domestic Industry has humbly requested the Authority to calculate benefits for all the schemes irrespective of whether the same are identified by them or not in its application.

F.2 Submissions made on behalf of other interested parties.

31. The other interested parties have made the following submissions with regard to subsidy programs and margins.

a. The Authority has initiated an investigation without analyzing the programs adequately. The applicant did not establish the existence of the three elements comprising a countervailable subsidy, namely, (a) financial contribution, (b) benefit, and (c) specificity.

b. The allegations made by the Domestic Industry that the Government of Malaysia and the exporters have not provided complete information is completely baseless, unfounded, and contrary to the facts on record. The Producers/Exporters, as well as the Government of Malaysia, have extended full cooperation to the Designated Authority throughout the course of the present Sunset Review investigation. All information and data, as sought by the Authority, have been duly furnished within the prescribed timelines and in the formats required under the Rules.
c. The applicant failed to provide 'sufficient evidence' to support allegations. No justification is provided for tying the alleged program to the subject goods in Malaysia. Most of the subsidies alleged by the applicant are mere assertions without any actual evidence Therefore, the allegation is insufficient and ignores principles of ASCM.
d. The Authority should use the verified data filed by the exporters for analyzing the subsidy programs and margins for any purpose.

Examination by the Authority

F.3 Calculation Methodology

32. Article 14 of ASCM, provides guidelines and methodology for calculating the benefit to the recipient conferred pursuant to paragraph 1 of Article 1 and further provides that any method used by the investigating authority to calculate the benefit to the recipient shall be transparent and adequately explained. Further, any method used by the investigating authority to calculate the benefit to the recipient shall be provided for in their national legislation or implementing regulations of the Member concerned and its application to each particular case shall be transparent and adequately explained. In accordance with the requirement, the Customs Tariff (Identification, Assessment and Collection of Countervailing Duty on Subsidized Articles and for Determination of Injury) Rules, 1995 lays down the methodology of determination of quantum of subsidization. The determination in this investigation is in accordance with these guidelines.

33. Further, the Authority has countervailed any admissible subsidy only once under a countervailable programme and not to undertake a double countervailability

F.3.1 **Examination of the Subsidy programs alleged by the Petitioners:**
Following subsidy programs have been specifically alleged in the petition and are mentioned in the notice of initiation.

i. Program 1: Subsidies in Natural Gas

a. Submission by the Domestic Industry

34. The Domestic Industry has submitted that under this program, natural gas is provided at subsidized rate by the gas providing company to industrial users. The Domestic Industry further submitted that this subsidy is available for industries engaged in manufacturing activities. This, in turn, provides the industries in manufacturing sector access to cheap gas.

As per the petitioner, the gas company is compensated by the government to the extent of subsidization. The domestic industry has provided supporting evidences in their application.

b. Submission by Government of Malaysia/other interested parties

35. It has submitted that from 1 January 2022, the gas price has been unregulated and determined on a willing-buyer, willing-seller basis, in accordance with the terms and conditions of the Gas sales agreement.

36. Ministry of External Affairs (MEA) and Energy Commission (EC) maintain records peratining to regulated gas prices, including revisions approval by the Government of Malaysia.

37. The gas price charged to industrial customers is based on tariff category. All the customers in the same tariff category will be imposed the same price.

c. Examination by Authority

38. The Authority in the original investigation recorded the following findings with respect to the present scheme:

"43. The Authority takes note of the fact that neither the Malaysian Government nor the cooperating producer from Malaysia has made any submission against the countervailability of this scheme. Nevertheless, the Authority examines the countervailability of the scheme below:

a) The response submitted by the GoM states that the gas prices in Malaysia are regulated by the Government.

b) The response submitted by the GoM acknowledges that there is a price differential in the market prices of gas and the prices of gas for industrial users.

c) Further, the response of GoM also states that the gas price charged to industrial customers is based on tariff category, indicating consumption-based tariff system.

39. It is noted from the response filed by the GoM in the present review investigation that:

a) Ministry of External Affairs (MEA) and Energy Commission (EC) maintain the record on regulated and gas prices revisions approval by the Government of Malaysia.

b) There is a price differential in the market prices of gas and the prices of gas for industrial users.

c) The gas price charged to industrial customers is based on tariff category.

40. Therefore, while the exporters and the GoM denies the existence of the subsidy under the present scheme and have stated that, since 2022 onwards, gas prices have been unregulated, the Authority has examined the responses submitted by both exporters and has also undertaken the desk verification in respect of each exporter. Upon such examination it has been found that:

41. **SBH Kibing Solar New Material :** The information furnished by the exporter during the desk verification denotes that it has procured gas from the government-owned company, Sabah Energy Corporation Ltd., at Less Than Adequate Remuneration (LTAR). It has also been observed that Sabah Energy Corporation Ltd. has issued a clarification stating that gas prices in the Sabah Region are less than 10% of the Malaysian Reference Price (MRP). The Authority therefore determines that the exporter has received gas from Sabah Energy Corporation Ltd. at Less Than Adequate Remuneration, and that this pricing is region-specific. The program is specific because it is limited to specific region that undertakes sales of gas at less than 10% of the Malaysian Reference Price. Accordingly, this constitutes a countervailable subsidy. The Authority notes that countervailing duty should be imposed against this subsidy program.

42. **Xinyi Solar:** Xinyi Solar SDN. BHD, Malaysia has submitted that it has not received any discounts, rebates, or special tariffs during the POI period. The natural gas supply is governed by the Gas Supply Agreement executed between the gas supplier and it's related company, under whose name the gas meter and supplier invoices are issued. The gas meter is shared between the company and its related company. Company does not receive any discount, rebate, concession, or preferential tariff from the gas supplier. Gas cost is allocated and back charged to our company strictly on the basis of actual consumption, without any mark-up, margin, or commercial adjustment. The Authority has verified from the historical prices published by its supplier and found that Xinyi has not received the Gas at LTAR. Thus, The Authority determines that countervailing duty should not be imposed against this program to Xinyi Solar.

ii. Program 2: The Market Development Grant

a. Submission by the Domestic Industry

43. The Petitioner submitted that the scheme is introduced by Malaysian Investment Development Authority (MIDA) for SMEs to promote export promotional activities. The maximum grant for an SME under the MDG program is RM 200,000. The SME should have been incorporated under the Companies Act, 1965 with at least 60% Malaysian equity ownership. The evidence and the legal basis are General Policies, Facilities, and Guidelines for Market Development Grants (MDG)-2016.

b. Submission by Government of Malaysia/other interested parties:

44. Market Development Grant (MDG) was part of the SME Masterplan that will be the game changer in accelerating the growth of SMEs to achieve high income nation status.

45. The MDG provides an opportunity for Malaysian SMEs to apply for a reimbursable grant up to RM200,000 for participation in export promotional activities namely International Trade Fairs, Trade & Investment Missions /Export Acceleration Missions, International Conferences Overseas and Listing Fees for Made-in-Malaysia Products in supermarkets, hypermarkets or retails centers overseas.

c. Examination by Authority

46. The Authority notes that the Market Development Plan (MDP) is intended to increase the participation of SMEs in export promotional activities. The MDP provides SMEs with a reimbursable grant up to RM 2,00,000 for their participation in export promotional activities such as International Trade Fairs, Trade & Investment Missions /Export Acceleration Missions, International Conferences Overseas and Listing Fees for Made-in-Malaysia Products in supermarkets, hypermarkets or retails centers overseas. Government of Malaysia has stated that there are no anticipated changes to the program.

47. The subsidy program provides for financial contribution in the form of direct transfer of funds and benefit is thereby conferred to the recipient. The subsidy program is also specific because it is contingent on export. Therefore, this program is noted to be countervailable. However, the benefit under this program is not availed by the participating exporters.

iii. Program 3: Pioneer Status

a. Submission by the Domestic Industry

48. The Domestic Industry has submitted that under this program a company granted Pioneer Status will enjoy tax exemption from corporate income tax. The program encourages investments in promoted activities/products in the manufacturing sector that can contribute to development and growth of economy. It applies to both local and foreign investors for approved promoted products/activities in the manufacturing sector. Five-year partial exemption is provided from payment of income tax. A company pays tax on 30% of its statutory income, with exemption period commencing from its Production Day. Unabsorbed capital allowances and accumulated losses incurred during the pioneer period can be carried forward and deducted from post pioneer income of company. As evidence of existence of the program, petitioners have relied on:

a) Promotion of Investment Act, 1986
b) Full notification pursuant to article xvi:1 of the GATT 1994 and article 25 of the Agreement on Subsidies and Countervailing measures-Malaysia dt. 5 October, 2017
c) http://www.mida.gov.my/home/incentives-in-manufacturing-sector/posts/
d) List of promoted activities and products which are eligible for consideration of pioneer status and investment tax allowance under the Promotion of Investment act, 1986
e) Laws of Malaysia Act 327 of Promotion of Investment act, 1986 Part-II Sec 5,6,7, deals with pioneer status
f) Web Report: EXIM Bank's Export Credit Refinancing
g) US Extruded through Malaysia

b. Submission by Government of Malaysia/other interested parties

49. Pioneer Status may be granted to any company intending to participate in a promoted activity or to produce a promoted product including an activity/product which is of national and strategic importance to Malaysia. Promoted activities and promoted products are determined by Minister of Finance and the Minister of Investment, Trade and Industry. The promoted products and activities cover all sectors among others, manufacturing, agricultural and services.

50. The major tax incentives for companies investing in the agricultural and manufacturing sectors are the Pioneer Status and Investment Tax Allowance. Companies can enjoy either one of the incentives as these incentives are mutually exclusive. Companies are required to submit the applications for the Pioneer Status program to the Malaysian Investment Development Authority (MIDA), an agency under Ministry of International Trade and Industry (MITI). The company will then be required to get the Pioneer Certificate from MIDA. This is to ensure that the company has complied with the conditions imposed. After MIDA is satisfied that the company has complied with the conditions, MIDA will determine the production date for the company and determine the start and ending date of the program. Later, companies approved with the program submit their claims to the Inland Revenue Board together with their annual tax returns containing the calculation of claim for the tax deductions. The applicants will need to go through the Approval Committee also.

51. The major tax incentives for companies investing in the agricultural and manufacturing sectors are the Pioneer Status and Investment Tax Allowance. These incentives are mutually exclusive. Sections 5-25 Promotion of Investments Act 1986 are evidence of the same. The benefit is an exemption from taxes owed. Also, losses can be carried forward.

52. The eligibility criteria for the Pioneer Status are: Level of value-added (VA) percentage; and Level of technology as measured by the Managerial, Technical and Supervisory (MTS) Index.

c. Examination by Authority

53. The Authority notes that Sections 5 to 25 of the Promotion of Investment Act 1986 provides for Pioneer Status Program. The program provides for tax incentives in the form of exemption from income tax. Losses incurred during the exemption period can be carried forward for subsequent years to offset taxable income/net profit. The program is available for a pre-specified list of promoted products/activities.

54. The program provides for financial contribution in the form of revenue foregone, which is otherwise due and benefit is thereby conferred. The program is also specific because it is available to promoted activity/product mentioned in the list. Therefore, this program is noted to be countervailable. However, the benefit under this program is not availed by the cooperating exporters.

iv. Program 4: Investment Tax Policies

a. Submission by the Domestic Industry

55. The Petitioner submitted that under this program, a company granted Investment Tax Allowance (ITA) is entitled to offset this allowance against the statutory income for each year of assessment. The program encourages investments in promoted activities/products in the manufacturing sector, that can contribute to development and growth of economy. It applies to both local and foreign investors for approved promoted products/activities in the manufacturing sector. An allowance of 60% on its qualifying capital expenditure incurred within 5 years from the date the first qualifying capital expenditure is incurred is given. Company can offset this allowance against 70% of its statutory income for each year of assessment. Remaining 30% of its statutory income will be taxed at the prevailing company tax rate. As evidence of existence of the program, Petitioners have relied on:

a) Promotion of Investment Act, 1986
b) Notification pursuant to article xvi:1 of the GATT 1994 and Article 25 of the Agreement on Subsidies and Countervailing measures-Malaysia dt. 5 October, 2017
c) http://www.mida.gov.my/home/incentives-in-manufacturing-sector/posts/
d) List of promoted activities and products which are eligible for consideration of pioneer status and investment tax allowance under the Promotion of Investment act, 1986

b. Submission by Government of Malaysia/other interested parties

56. Investment Tax Allowance (ITA) may be granted to any company intending to participate in a promoted activity or to produce a promoted product including an activity/product which is of national and strategic importance to Malaysia. Promoted activities and promoted products are determined and gazetted by the Minister of International Trade and Industry. Sections 26 – 29 of the Promotion of Investments Act 1986 (Act 327) are evidence of the same.

57. The allowance is only given on capital expenditure incurred on industrial buildings, plant and machinery directly used for promoted activities or the production of the promoted products. Companies are required to submit the applications for ITA program to MIDA, an agency under MITI. The company will then be required to establish the commencement of ITA period which is on the incurrence of the first capital expenditure duly certified by MIDA. Later, companies approved with the program submit their claims to the Inland Revenue Board (IRB) together with their annual tax returns containing the calculation of claim for the tax deductions.

58. The eligibility criteria for the ITA are value added (VA) percentage and level of technology as measured by the Managerial, Technical and Supervisory (MTS) Index.

59. Not all individuals/firms who applied and met all the eligibility criteria are approved. The applicants will need to go through the Approval Committee. The assistance is a deduction from statutory income. The allowance can be carried forward until fully utilized.

60. A company can elect to receive Pioneer Status but not receive the Investment Tax Allowance, or can elect to receive the Investment Tax Allowance, but not Pioneer Status.

c. Examination by Authority

61. The Authority notes that Sections 26 to 29 of the Promotion of Investments Act 1986 provides for Investment Tax Allowance program. Promoted activities and promoted products are granted a capital allowance. Value addition and technological requirements are also to be fulfilled. Investment Tax Allowance of 60% on the qualifying capital expenditure incurred within five years from the date the first qualifying capital expenditure is incurred. The allowance can be utilised to offset against 100% of the statutory income for each year of assessment. Any unutilised allowances can be carried forward to subsequent years until fully utilised. Even for companies that meet the listed criteria of promoted activity, value addition and level of technology, the Authority retains the discretion to reject the applicant seeking benefit under this program.

62. The program provides for financial contribution in the form of revenue foregone and benefit is thereby conferred. The program is also specific since it is limited to certain enterprises, which meets the promoted product and are approved by the Authority. A company that has received income tax exemption from Pioneer Status cannot avail benefit under this program. The program is noted to be countervailable. It is further noted that any exporter can avail benefit under either of any two schemes and therefore, countervailing duty should be imposed for either of the schemes and not both.

63. **SBH Kibing Solar New Material:** The information and documents furnished by the exporter in its response and during the desk verification denotes that it has availed the benefit under the scheme. The Authority notes that countervailing duty should be imposed against this subsidy program.

64. Xinyi Solar: Xinyi Solar SDN. BHD, Malaysia has submitted that it has availed benefit under the present scheme whereby the total investment cost on production facilities incurred within the period of ten (10) years from January 2015 can be used to offset the taxable profit incurred since year 2015 till the accumulated ITA is fully utilized. It has been verified from the documents submitted by the exporter during the desk verification. Hence, the Authority notes that countervailing duty should be imposed against this subsidy program.

v. Program 5: Reinvestment Allowance

a. Submission by the Domestic Industry

65. Reinvestment Allowance (RA) is available for existing companies engaged in manufacturing and selected agricultural activities that reinvest for the purposes of expansion, automation, modernization or diversification into any related products within

the same industry on condition that such companies have been in operation for at least 36 months. The RA is given at the rate of 60% on the qualifying capital expenditure incurred by the company, and can be offset against 70% of its statutory income for the year of assessment. Any unutilized allowance can be carried forward to subsequent years until fully utilised.

66. A company can offset the RA against 100% of its statutory income for the year of assessment if the company attains a productivity level exceeding the level determined by the Ministry of Finance.

67. The RA will be given for a period of 15 consecutive years beginning from the year the first reinvestment is made. Companies can only claim the RA upon the completion of the qualifying project, i.e. after the building is completed or when the plant/machinery is put to operational use.

b. Submission by Government of Malaysia/other interested parties

68. None of the interested parties including GoM, provided any details of this scheme. GoM has submitted that the inclusion of alleged subsidy programs that were not part of the original countervailing duty (CVD) investigation without proper justification violates fundamental principles of the WTO Agreement on Subsidies and Countervailing Measures (ASCM) and established procedural requirements for evidence verification.

69. GOM views that the DGTR must conduct thorough verification of all evidence and cannot simply accept unsupported allegations, as this would violate the ASCM's fundamental requirements for proper countervailing duty investigations. The addition of new subsidy programs without meeting the evidentiary standards of Article 11.2 undermines the integrity of the investigation process and violates established WTO obligations.

70. Under Article 11.2, an application for initiation of an investigation "shall include evidence of (a) a subsidy and, if possible, its amount; (b) injury within the meaning of Article 15; and (c) a causal link between the subsidized imports and the alleged injury". The investigating authority cannot simply add new subsidy programs without meeting these fundamental evidentiary requirements.

c. Examination by Authority

71. The Authority notes that Reinvestment Allowance (RA) is provided under Schedule 7A of the Income Tax Act, 1967. It incentivizes existing manufacturing and certain agricultural companies to reinvest in expansion, modernization, automation or diversification into related products.

72. The Authority based on the Income Tax Act and publicly available guidance on Malaysian tax incentives, notes that RA: (i) is a long-duration allowance (15 years) for reinvestment;

(ii) encourages capital reinvestment for capacity expansion and technological up-gradation; and (iii) provides significant tax savings for capital-intensive manufacturers.

73. Therefore, by applying the three-element test: (i) Financial Contribution: RA reduces the taxable income base, resulting in revenue foregone by the government; (ii) Benefit: RA allows companies to pay less income tax than they would under the standard regime. The benefit can be quantified as the tax saved due to the RA deduction; and (iii) Specificity: RA is available only to existing manufacturing companies, subject to a 36-month operations condition and reinvestment in specified projects. It is not a generally available measure. Reinvestment Allowance thus constitutes a countervailable subsidy in principle. However, the benefit under this program is not availed by the cooperating exporters.

vi. Program 6: Accelerated Capital Allowance

a. Submission by the Domestic Industry

74. The Domestic Industry has submitted that under this program a special allowance, where the capital expenditure is written off within 2 years, i.e. an initial allowance of 40% and an annual allowance of 20%, is given. After the 15-year period of eligibility for Reinvestment Allowance, companies that reinvest in the manufacture of promoted products are eligible to apply for Accelerated Capital Allowance. Applications have to be submitted to the IRB accompanied by a letter from MIDA certifying that the companies are manufacturing promoted activities/products. As evidence of existence of the program, Petitioners have relied on:

a) Promotion of Investment Act, 1986
b) http://www.mida.gov.my/home/incentives-in-manufacturing-sector/posts/
c) List of promoted activities and products which are eligible for consideration of pioneer status and investment tax allowance under the Promotion of Investment act, 1986

b. Submission by Government of Malaysia/other interested parties

75. Accelerated Capital Allowance (ACA) provides allowances to write off the capital expenditure within two years, i.e., an initial allowance of 20 percent in the first year and an annual allowance of 40 percent. This program is available to all companies and the IRB applies objective criteria in granting ACA. The assistance is an accelerated capital allowance to be deducted from taxable income. The allowance can be carried forward. Generally, to be eligible for accelerated capital allowance (ACA), a person must meet the following conditions:

a) He was carrying on a business during the basis period,
b) He has incurred qualifying expenditure in the basis period,
c) The asset was used for purposes of a business, and
d) At the end of the basis period, he was the owner of the asset and the asset was in use.

76. Companies under investigation will be eligible to claim ACA if they fulfil the criteria and government doesn't exercise discretion as to which firm is eligible to benefit.

c. Examination by Authority

77. Authority notes that the program provides for capital allowance to write off the total capital expenditure within two years, i.e., an initial allowance of 20 percent in the first year and an annual allowance of 40 percent. Authority notes that the program provides for financial contribution in the form of revenue foregone and benefit is thereby conferred. The program is also specific because it is available to certain enterprise carrying out a promoted activity that qualifies for using this allowance and does not qualify for re-investment allowance on account of expiry of 15 years period of eligibility. Therefore, the program is noted to be countervailable. However, the benefit under this program is not availed by the cooperating exporters.

vii. Program 7: Green Financing Initiatives

a. Submission by the Domestic Industry

78. As per the information provided by the petitioner, this scheme is administered by the Malaysian Investment Development Authority (MIDA) (https://www.mida.gov.my/), these fiscal incentives provide substantial tax benefits for renewable energy investments. The program offers capital allowances on qualifying green expenditures, while GITE exempts a percentage of income derived from eligible green activities from taxation, effectively accelerating the return on investment for solar projects, including PPA arrangements.

b. Submission by Government of Malaysia/other interested parties

79. GoM submitted that the inclusion of alleged subsidy programs that were not part of the original countervailing duty (CVD) investigation without proper justification violates fundamental principles of the WTO Agreement on Subsidies and Countervailing Measures (ASCM) and established procedural requirements for evidence verification.

80. GOM views that the DGTR must conduct thorough verification of all evidence and cannot simply accept unsupported allegations, as this would violate the ASCM's fundamental requirements for proper countervailing duty investigations. The addition of new subsidy programs without meeting the evidentiary standards of Article 11.2 undermines the integrity of the investigation process and violates established WTO obligations.

81. Under Article 11.2, an application for initiation of an investigation "shall include evidence of (a) a subsidy and, if possible, its amount; (b) injury within the meaning of Article 15; and (c) a causal link between the subsidized imports and the alleged injury". The investigating authority cannot simply add new subsidy programs without meeting these fundamental evidentiary requirements.

82. None of the participating exporters have provided any information regarding this program, including whether they have refrained from availing any subsidy thereunder.

c. Examination by Authority

83. Authority notes that based on material placed by the Domestic Industry and general information on Malaysian tax incentives for green technology, the beneficiaries enjoy lower financing costs or reduced tax liabilities relative to normal market conditions; and such measures are specific to green technology and renewable energy activities, not generally available to all enterprises. The Authority therefore treats this Program as countervailable in principle. However, the benefit under this program is not availed by the cooperating exporters.

viii. Program 8: Net Energy Metering (NEM) & Solar incentives

a. Submission by the Domestic Industry

84. The petitioner has submitted that under the current program, the GoM provides incentives for solar generation (rooftop, onsite).

85. As per the information provided by the petitioner, NEM Rakyat initiative is part of Malaysia's NEM 3.0 scheme, designed to incentivize rooftop solar installations through permitting net metering. Under this scheme, the Malaysian government had launched the Solar for Rakyat Incentive Scheme (SolaRIS), offering up to MYR 4,000 ($942.12) in rebates for household solar installations.

b. Submission by Government of Malaysia/other interested parties

86. GOM submitted that the inclusion of alleged subsidy programs that were not part of the original countervailing duty (CVD) investigation without proper justification violates fundamental principles of the WTO Agreement on Subsidies and Countervailing Measures (ASCM) and established procedural requirements for evidence verification.

87. GOM views that the DGTR must conduct thorough verification of all evidence and cannot simply accept unsupported allegations, as this would violate the ASCM's fundamental requirements for proper countervailing duty investigations. The addition of new subsidy programs without meeting the evidentiary standards of Article 11.2 undermines the integrity of the investigation process and violates established WTO obligations.

88. Under Article 11.2, an application for initiation of an investigation "shall include evidence of (a) a subsidy and, if possible, its amount; (b) injury within the meaning of Article 15; and (c) a causal link between the subsidized imports and the alleged injury". The investigating authority cannot simply add new subsidy programs without meeting these fundamental evidentiary requirements.

c. Examination by Authority

89. The Authority notes that the NEM 3.0 and associated schemes such as SolaRIS in Malaysia provide incentives for rooftop solar installations by allowing net metering and direct

rebates. The Domestic Industry alleges that the subject exporters have installed significant rooftop solar capacity and have benefited from these schemes The Authority treats this Program as countervailable in principle as benefit is given to only those entities who have installed solar installations. The benefit under this program, however, is not availed by the cooperating exporters.

ix. Program 9: Regional Incentives (Sabha / Melaka).

a. Submission by the Domestic Industry

90. The petitioner based on the information available in the public domain submitted that under the present scheme, both the exporters have been benefitted by the regional schemes such as state-level support by way of land subsidies, fast-tracked permits etc., and as per the information available one of the participating exporters is benefitting under the scheme through RM 7.2 billion investment in a new solar glass manufacturing facility in Kimanis.

b. Submission by Government of Malaysia/other interested parties

91. GoM has not provided detailed regional incentive program documentation, but has again stressed the ASCM requirements for evidence and the need for proper justification before including any additional subsidy programs. Moreover, both the exporters have also not provided any details of the scheme and denied that they have availed any such benefit.

a. Examination by Authority

92. The Domestic Industry alleges that regional incentive schemes at state or corridor level (e.g., Sabah, Melaka) provide land subsidies, infrastructure support, and fast-tracked permits to attract large investments in designated regions. One of the participating exporters benefited from such regional incentives in relation to a large solar glass manufacturing facility in Kimanis (Sabah), involving investments of about RM 7.2 billion.

93. The Authority notes that Malaysia has designated economic corridors and state-level schemes aimed at attracting investments through: (i) below-market provision of land; (ii) government-funded or co-funded infrastructure; and (iii) simplified and accelerated permitting procedures. Conceptually, such measures could satisfy the three-element test if: (i) land and infrastructure are provided at less than adequate remuneration, implying revenue foregone or government cost assumption; (ii) the investor's capital costs are reduced, conferring a measurable benefit; and (iii) the incentives are specific to designated regions and particular projects, and not generally available to all firms nationwide. However, specific legislative texts, loan agreements, and actual utilization data are not on record. Though the authority treats this Program as countervailable in principle, the benefit under this program is not availed by the cooperating exporters.

x. Program 10: Supply Chain facilitation Program

a. Submission by the Domestic Industry

94. The applicant has submitted that under this scheme the GoM is providing Support for local vendor development. As per the information provided by it, this program aims to create opportunities for domestic companies, narrow gaps in the supply chain, support multinational companies (MNCs) and Limited Liability Companies (LLCs) in outsourcing their manufacturing activities to domestic companies, as well as develop and upgrade the domestic companies. It has alleged that Malaysian Investment Development Authority (MIDA) is extending its support to Xinyi Energy for the purpose of this program.

b. Submission by Government of Malaysia/other interested parties

95. GOM submitted that the inclusion of alleged subsidy programs that were not part of the original countervailing duty (CVD) investigation without proper justification violates fundamental principles of the WTO Agreement on Subsidies and Countervailing Measures (ASCM) and established procedural requirements for evidence verification.

96. GOM views that the DGTR must conduct thorough verification of all evidence and cannot simply accept unsupported allegations, as this would violate the ASCM's fundamental requirements for proper countervailing duty investigations. The addition of new subsidy programs without meeting the evidentiary standards of Article 11.2 undermines the integrity of the investigation process and violates established WTO obligations.

97. Under Article 11.2, an application for initiation of an investigation "shall include evidence of (a) a subsidy and, if possible, its amount; (b) injury within the meaning of Article 15; and (c) a causal link between the subsidized imports and the alleged injury". The investigating authority cannot simply add new subsidy programs without meeting these fundamental evidentiary requirements.

c. Examination by Authority

98. The Supply Chain Facilitation Program is alleged to be a MIDA-administered initiative intended to upgrade domestic vendors, and support multinational company (MNC)/LLC outsourcing to domestic suppliers. Companies in the logistics and supply chain industry in Malaysia are stated to be eligible for facilitation services from MIDA including various tax incentives, and/or customs duty exemptions. However, specific legislative texts, loan agreements, and actual utilization data are not on record. The Authority therefore treats this Program as countervailable in principle. However, the benefit under this program is not availed by the cooperating exporters.

xi. Program 11: Group Relief

a. Submission by the Domestic Industry

99. The petitioner has submitted that Group Relief is provided under the Income Tax Act 1967 to all locally incorporated resident companies. It allows related companies to offset losses of one group entity against profits of another, the claimant and surrendering companies each must have a paid up share capital of ordinary shares exceeding RM 2.5Million. Both the claimant and the surrendering companies must have the same accounting period. The Shareholding, whether direct or indirect, of the claimant and the surrendering companies in the group must not be less than 70%. Losses resulting from the acquisition of the proprietary rights or a foreign owned company should be disregarded for the purpose of group relief.

b. Submission by Government of Malaysia/other interested parties

100. GoM has not provided detailed program documentation, but has again stressed the ASCM requirements for evidence and the need for proper justification before including any additional subsidy programs. Both the exporters have simply denied any benefit received under this scheme.

c. Examination by Authority

101. The Authority notes that Group Relief, under the Income Tax Act, 1967, allows related companies to offset losses of one group entity against profits of another, thereby reducing the overall tax burden at the group level. As per general understanding of Group Relief regimes and the material on record: (i) group relief is a generally available mechanism for resident companies meeting shareholding and control thresholds; (ii) it is not contingent upon export performance or any specific sector; and (iii) it does not appear to discriminate between industries or regions.

102. Applying the three-element test: (i) while Group Relief may involve some element of revenue foregone, it does not appear to be limited to specific enterprises or industries; (ii) it is a general feature of the income tax system for group companies; and (iii) therefore, the specificity requirement for countervailability is not met.

103. The Authority therefore regards this Program as not countervailable for purposes of this investigation.

xii. Program 12: Allowance Industrial Building (IBA)

a. Submission by the Domestic Industry

104. The Domestic Industry has claimed that IBA is granted to companies incurring capital expenditure on the construction or purchase of a building that is used for specific purposes,

including manufacturing, agriculture, mining, infrastructure facilities, research, approved service projects and hotels that are registered with the Ministry of Tourism.

b. Submission by Government of Malaysia/other interested parties

105. GoM has not provided detailed program documentation, but has again stressed the ASCM requirements for evidence and the need for proper justification before including any additional subsidy programs. Both the exporters have simply denied any benefit received under this scheme.

c. Examination by Authority

106. The Authority notes that the claim relating to Industry Building Allowance ("IBA") has been made by the Domestic Industry in generic terms, without placing on record any transaction-specific or company-specific evidence to establish that the subject exporters have actually availed or benefitted from the said scheme during the period of investigation.

107. It is further noted that the Government of Malaysia has not furnished any detailed documentation demonstrating the operational framework, eligibility conditions, grant mechanism, or actual disbursement/availing of benefits under the alleged incentive program in respect of the participating exporters. The exporters, on their part, have categorically denied receipt of any benefit under the IBA scheme, and no contrary evidence has been placed on record to rebut such denial. In the absence of verifiable information substantiating actual receipt of benefits by the participating exporters, the Authority is unable to conclude that the alleged IBA scheme has resulted in any countervailable subsidy to the participating exporters during the period of investigation. Accordingly, the claim relating to IBA is not accepted for the purpose of the present investigation.

xiii. Program 13: Allowance for plants and Machinery

a. Submission by the Domestic Industry

108. The Domestic Industry has claimed that capital allowance is a relief for wear and tear of fixed assets for business. In order to qualify, expenditure must be capital in nature and used for business purposes. Qualifying Expenditure (QE) includes costs of assets used in business such as plants and machinery, office equipment, furniture, fittings, motor vehicles etc. Where an asset is acquired on a hire purchase term, the QE for a particular basis period is based on amount of capital repayment made during that basis period. Initial allowance is fixed at 20% based on the cost of the asset at the time when the capital expenditure is incurred. Annual allowance is a flat rate given every year based on the original cost of the asset and varies accordingly.

b. Submission by Government of Malaysia/other interested parties

109. GoM has not provided detailed program documentation, but has again stressed the ASCM requirements for evidence and the need for proper justification before including any

additional subsidy programs. Both the exporters have simply denied any benefit received under this scheme.

c. Examination by Authority

110. The Authority notes that the claim relating to Allowance for Plant and Machinery has been made by the Domestic Industry in generic terms, without placing on record any transaction-specific or company-specific evidence to establish that the participating exporters have actually availed or benefitted from the said scheme during the period of investigation.

111. It is further noted that the Government of Malaysia has not furnished any detailed documentation demonstrating the operational framework, eligibility conditions, grant mechanism, or actual disbursement/availing of benefits under the alleged incentive program in respect of the participating exporters. The exporters, on their part, have categorically denied receipt of any benefit under this scheme, and no contrary evidence has been placed on record to rebut such denial. In the absence of verifiable information substantiating actual receipt of benefits by the participating exporters, the Authority is unable to conclude that this scheme has resulted in any countervailable subsidy to the participating exporters during the period of investigation. Accordingly, the claim relating to this scheme is not accepted for the purpose of the present investigation.

xiv. Program 14: Double Deduction for Promotion of Malaysian brand

a. Submission by the Domestic Industry

112. The Domestic Industry has submitted that under this program, expenditure incurred on advertising local brand products domestically is allowed double deduction i.e. expenses incurred on certain activities can be set off twice as against taxable profits. The local brand must be owned more than 50% by the registered proprietor of the Malaysian brand name which should be owned by a company that's locally incorporated with at least 70% Malaysian owned and registered in Malaysia or overseas. The deduction can only be claimed by one company in a year of assessment. As evidence of existence of the program, Petitioners have relied on:

a) Promotion of Investment Act, 1986
b) Income tax promotion of export rules 1986
c) Inland Revenue Board of Malaysia Public Ruling No.1/2013

b. Submission by Government of Malaysia/other interested parties

113. GOM has submitted that the expenditure for qualifying advertisements in advertising Malaysian brand name goods is eligible for a double deduction in arriving at adjusted income from a business. Income Tax (Deduction for Advertising Expenditure on Malaysian Brand Name Goods) Rules 2002 are given in evidence. Applicant companies are required

to make the claim for the incentive by completing forms and substantiate the claims together with copies of business receipts pertaining to the expenses incurred within Malaysia for advertising Malaysian brand goods. The original supporting documents must be retained by the company for audit purposes by the IRB. The claim can be made in the annual tax returns for the fiscal year (basis period) in which the expenditure is incurred. The companies under investigation will be eligible to claim the deductions if they fulfill the criteria. The assistance is a deduction from taxable income. The deduction can be carried forward.

c. Examination by Authority

114. The Authority notes that this program is governed by Income Tax (Deduction for Advertising Expenditure on Malaysian Brand Name Goods) Rules 2002. Under this program, expenditure incurred in advertising Malaysian brand is eligible for double deduction from business income. To qualify for this double deduction, the company must have 70% Malaysian equity and the brand name should be of goods of export quality. The program provides for financial contribution in the form of revenue foregone, which is otherwise due and benefit is thereby conferred. The program is also specific because it is available to an enterprise that incurs expenses on advertising Malaysian brand. Therefore, this program is noted to be countervailable. However, the benefit under this program is not availed by the cooperating exporters.

xv. Program 15: Incentive for manufacturing and manufacturing related service in East Cost Economic Corridor

a. Submission by the Domestic Industry

115. The Domestic Industry submits that the incentive scheme for manufacturing and manufacturing-related services in the East Coast Economic Corridor constitutes a countervailable subsidy, as it involves a financial contribution by the Government of Malaysia in the form of tax incentives, income tax exemptions, stamp duty exemption and other fiscal concessions. The scheme is region-specific and limited to enterprises located within the EEC, thereby satisfying the test of specificity. Further, the incentives are aimed at promoting manufacturing of selected and agro based products.

b. Submission by Government of Malaysia/other interested parties

116. GOM has submitted that the inclusion of alleged subsidy programs that were not part of the original countervailing duty (CVD) investigation without proper justification violates fundamental principles of the WTO Agreement on Subsidies and Countervailing Measures (ASCM) and established procedural requirements for evidence verification.

117. GOM views that the DGTR must conduct thorough verification of all evidence and cannot simply accept unsupported allegations, as this would violate the ASCM's fundamental requirements for proper countervailing duty investigations. The addition of new subsidy programs without meeting the evidentiary standards of Article 11.2 undermines the integrity of the investigation process and violates established WTO obligations.

118. Under Article 11.2, an application for initiation of an investigation "shall include evidence of (a) a subsidy and, if possible, its amount; (b) injury within the meaning of Article 15; and (c) a causal link between the subsidized imports and the alleged injury". The investigating authority cannot simply add new subsidy programs without meeting these fundamental evidentiary requirements.

c. Examination by Authority

119. The Authority has examined the submissions of the Domestic Industry as well as those of the Government of Malaysia and other interested parties. The Authority notes that while the EEC incentive scheme appears to be geographically limited, determination of its countervailable nature requires establishment of a financial contribution, conferral of a benefit, and specificity, along with a quantifiable benefit to the exporters of the subject goods during the period of investigation. The Authority observes that no verified, exporter-specific information has been furnished demonstrating actual receipt and utilization of benefits under the scheme or establishing a clear nexus and allocation of any alleged benefit to the subject goods. The Authority is unable to conclude that this scheme has resulted in any countervailable subsidy to the participating exporters during the period of investigation. Accordingly, the claim relating to this scheme is not accepted for the purpose of the present investigation.

xvi. Program 16: Draw back on Import duty, Sales tax and Excise duty

a. Submission by the Domestic Industry

120. The Domestic Industry has submitted that under this program, drawback on import duty, sales tax and excise duty that have been paid may be claimed by a manufacturer if the parts, raw materials or packaging materials are used in the manufacture of goods for export within a year based on conditions stipulated in the acts. As evidence of existence of the program, Petitioners have relied on:

a) Section 99 of the Customs Act 1967
b) Section 29 of the Sales tax Act 1972
c) Section 19 of the Excise Act 1976

b. Submission by Government of Malaysia/other interested parties

121. GOM has submitted that the Drawback programme, administered by the Royal Malaysian Customs Department (RMCD) on a case-by-case basis, provides for refund of import duties on goods that are subsequently re-exported and operates strictly upon application supported by verifiable import and export documentation under sections 93, 95 and 99 of the Customs Act, 1967

122. GOM further submits that the program is not countervailable as it falls within the exceptions under Annexes I, II and III of the SCM Agreement, applying the excess remission principle. In this regard, it is well-settled, including by the WTO Panel and Appellate Body in EU – Countervailing Measures on Certain PET from Pakistan, that duty drawback

schemes are countervailable only to the extent of remission in excess of duties actually accrued, and only where there is a proper evidentiary basis.

123. The GOM and the participating exporters have categorically stated that no benefit has been availed under the program during the period of investigation.

c. Examination by Authority

124. The Drawback program allegedly permits refund of import duty, sales tax and excise duty paid on parts, raw materials or packaging materials used in the manufacture of goods exported within the prescribed period, in accordance with the conditions stipulated under Section 99 of the Customs Act, 1967, Section 29 of the Sales Tax Act, 1972 and Section 19 of the Excise Act, 1976, thereby establishing the existence of the program.

125. The Authority further notes that the program is administered by the Royal Malaysian Customs Department (RMCD) on a case-by-case basis and operates only upon submission and verification of complete import and export documentation. In principle, Drawback program may be countervailable only where there is remission of duties in excess of those actually accrued, in terms of Annexes I, II and III of the SCM Agreement, and subject to a proper evidence. In the present case, both the subject exporters have categorically stated that they did not avail or receive any benefit under the Drawback program during the period of investigation, and no evidence has been placed on record to contradict such statements. Accordingly, the Authority concludes that the program is not countervailable for the purpose of the present investigation.

xvii. Program 17: Sales Tax Exemption

a. Submission by the Domestic Industry

126. The Domestic Industry has submitted that in order to reduce cost of doing business and enhance competitiveness the government has exempted the sales tax. This program is approved and administrated by RMCD and established in 1.9.2018. The Domestic Industry has submitted that under this scheme manufacturers with an annual sales turnover of less than RM 100,000 are exempted from licensing and are thus exempted from paying sales tax on their output. However, these manufacturers can opt to be licensed and obtain sales tax exemption on their inputs instead.

b. Submission by Government of Malaysia/other interested parties

127. GOM has submitted that the Sales Tax exemption scheme provides relief from payment of sales tax on importation and purchase of locally manufactured goods to specified persons and manufacturers under the Sales Tax (Person Exempted from Payment of Tax) Order, 2018. The exemptions are structured under three schedules: Schedule A covering classes of persons meeting prescribed criteria and conditions; Schedule B covering manufacturers of specific non-taxable goods, granting exemption on acquisition of all goods (excluding petroleum) used solely and directly in the manufacture of non-taxable goods; and Schedule

C covering registered manufacturers of taxable goods, granting exemption on raw materials, components and packaging materials used solely and directly in the manufacture of taxable goods. The programme is approved and administered by the Royal Malaysian Customs Department (RMCD) and operates on the basis of applications, with eligibility contingent upon fulfilment of the prescribed criteria by the companies concerned. It has also stated that none of the companies under investigation applied for, accrued or received benefit from this program.

c. Examination by Authority

128. The Authority has examined the submissions made by the domestic industry as well as those of the GOM and other interested parties. The Authority notes that the program is administered by the Royal Malaysian Custom Department. The program provides exemption from payment of sales tax, to persons or manufacturers who meet the eligibility criteria and conditions. This exemption is on import of plant and machinery and on purchase of locally manufactured goods in the domestic market. The benefit is in the form of revenue forgone as it provides exemption of Sales tax to exporters which is otherwise due. The program is also specific because it is available to certain enterprise who meet the eligibility criteria. Therefore, this program is noted to be countervailable.

129. **Xinyi Solar** : The information and documents furnished by the exporter in its response, as well as during the desk verification, denote that the exporter has availed benefits under the program. Accordingly, the Authority notes that countervailing duty is warranted against this program.

130. **SBH Kibing Solar New Materials (M) SDN. BHD**: The information and documents furnished by the exporter in its response, as well as during the desk verification, denote that the exporter has availed benefits under the program. Accordingly, the Authority notes that countervailing duty is warranted against this program.

xviii. Program 18: Exemption from Import Duty and Sales Tax for Outsourcing Manufacturing Activities

a. Submission by the Domestic Industry

131. The Domestic Industry has submitted that under this program, to reduce cost of doing business and enhance competitiveness, import duty and sales tax exemption are given to Malaysian brands with at least 60% Malaysian equity who outsource manufacturing activities. Import duty and sales tax exemption on raw materials and components used in manufacturing of finished products by their contractual manufacturers locally/abroad and import duty and sales tax exemption on semi-finished goods from their contract manufacturers abroad to be used by their local contract manufacturers to manufacture finished products are available.

b. Submission by Government of Malaysia/other interested parties

132. GOM has submitted that the program provides import duty exemption on raw materials, components and/or semi-finished products for outsourcing manufacturing activities. A committee on duty exemption is established with members comprised of representatives from MoF, MITI, RMCD, MIDA and IPC. All manufacturers which meet the eligibility criteria will benefit from scheme and the authorities do not exercise discretion. No changes are anticipated to the program.

133. It has also stated that this program is not countervailable since it conforms with the provisions of Annex I, II and III of the SCM Agreement. To qualify for the exemption:
   a) Imported raw materials and components which are used to manufacture finished products with nil import duty.
   b) Semi-finished products are imported from contract manufacturers abroad and are used in the manufacture of finished products by local contract manufacturers.

c. Examination by Authority

134. Authority notes that the program is administered by the Malaysian Investment Development Authority. The program provides import duty exemption on raw materials, components and/or semifinished products for outsourcing manufacturing activities. Raw materials which are used in the production of the exported product and semi-finished goods which are imported from contract manufacturers for use by local manufacturers qualify for this exemption Therefore, this program is noted to be countervailable. However, the benefit under this program is not availed by the cooperating exporters.

xix. Program 19: Exemption from Import Duty and Sales Tax on Spares and Consumables

a. Submission by the Domestic Industry

135. The Domestic Industry has submitted that since it is the policy of the government not to impose taxes on spares and consumables used directly in manufacturing process where import duties are nil and not produced locally, tax exemption-Revenue forgone is given where imported spares and consumables are taxable but not available locally. An exemption is given on import duty and sales tax. As evidence of existence of the program, Petitioners have relied on MIDA's tariff related incentives.

b. Submission by Government of Malaysia/other interested parties

136. GOM has stated that the program provides import duty exemption on spares and consumables to qualified manufacturer. MIDA issues a letter to confirm the status of the manufacturer. The program involved evaluating import duty exemption on raw materials, components and/or semi-finished products for outsourcing manufacturing activities. A committee on duty exemption is established with members comprised of representatives from MoF, MITI, RMCD, MIDA and IPC. All manufacturers which meet the eligibility

criteria will benefit from this scheme and MIDA does not exercise discretion. No changes are anticipated to the program. It has also stated that this program is not countervailable since it conforms with the provisions of Annexes I, II and III of the SCM Agreement (Exception to the subsidy definition). The laws and regulations governing this program are contained in Customs Duties (Exemption) Order 2017.

c. Examination by Authority

137. Authority notes that the program is governed by Customs Duties (Exemption) Order 2017. It provides for import duty exemption on spares and consumables. The program is administered by Malaysian Investment Development Authority (MIDA). The program provides financial contribution in the form of revenue foregone, which is otherwise due and benefit is thereby conferred. The program is also specific because it is subject to fulfilment of certain criteria. Therefore, this program is noted to be countervailable. However, the benefit under this program is not availed by the cooperating exporters.

xx. Program 20: Exemption from Import Duty and Sales Tax on Machinery and Equipment

a. Submission by the Domestic Industry

138. The Domestic Industry has submitted that since it is the policy of the government not to impose taxes on machinery and equipments used directly in manufacturing process and not produced locally, tax exemption-Revenue forgone is given where imported machinery and equipment are taxable but not available locally. Full exemption is given on import duty and sales tax. For locally purchased machinery and equipment full exemption is given on sales tax from Licensed Manufacturing Warehouse, Bonded Warehouse or Free Zone. As evidence of existence of the program, Petitioners have relied on MIDA's tariff related incentives.

b. Submission by Government of Malaysia/other interested parties

139. GOM has submitted that the program provides import duty exemption on machinery and equipment to qualified manufacturer. MIDA issues a letter to confirm the status of the manufacturer. The manufacturer then claims for exemption. To qualify for the exemption, the machinery and equipment must be new, unused and directly used in the manufacturing process of the finished product at the approved manufacturer's premise(s). All manufacturers which meet the eligibility criteria will benefit from this scheme and MIDA does not exercise discretion. No changes are anticipated to the program. It also submits that this program is not countervailable since it conforms with the provisions of Annexes I, II and III of the SCM Agreement (Exception to the subsidy definition). The laws and regulations governing this program are contained in Customs Duties (Exemption) Order 2017.

140. The companies under investigation conformed with the eligibility criteria which are under MIDA's purview.

c. Examination by Authority

141. Authority notes that the program is governed by Customs Duties (Exemption) Order 2017. It provides for import duty exemption on new and unused machinery and equipment to qualified manufacturer. involved evaluating import duty exemption on machinery and equipment to qualified manufacturer. The program is administered by the Malaysian Investment Development Authority.

142. The program provides a financial contribution in the form of revenue foregone, which is otherwise due and benefit is thereby conferred. The program is also specific because it is limited to certain enterprises that import new machinery and equipment for manufacturing activity. Therefore, this program is noted to be countervailable.

143. **Xinyi Solar**: It has not availed the benefit under the program. The Authority determines that countervailing duty should not be imposed against this program to Xinyi Solar.

144. **SBH Kibing Solar New Materials (M) SDN. BHD**: The information and documents furnished by the exporter in its response, as well as during the desk verification, denote that the exporter has availed benefits under the program. Accordingly, the Authority notes that countervailing duty is warranted against this subsidy program.

xxi. Program 21: Exemption from Import Duty on Raw Materials/Components

a. Submission by the Domestic Industry

145. The Domestic Industry has submitted that under this program, full exemption from import duty on raw materials/components is normally granted, provided raw materials/components are not produced locally or if produced locally, they aren't of acceptable quality and price. This is regardless of whether the finished products are meant for export or domestic market. The eligibility is that the companies should be involved in manufacturing activities.

b. Submission by Government of Malaysia/other interested parties

146. GOM has stated that the laws and regulations governing this program are contained in section 14(2) of Customs Act 1967. It provides for import duty exemption on raw material and components to qualified manufacturer. A committee on duty exemption is established with members comprised of representatives from MoF, MITI, RMCD and MIDA. All manufacturers which meet the eligibility criteria will benefit from this scheme and MIDA does not exercise discretion. It has also stated that this program is not countervailable since it conforms with the provisions of Annexes I, II and III of the SCM Agreement (Exception to the subsidy definition). The companies under investigation conformed with the eligibility criteria which are under MIDA's purview.

c. Examination by Authority

147. Authority notes that the program is governed by Section 14(2) of Customs Act 1967. The program provides for import duty exemption to the qualified manufacturer on raw materials / component that are not locally available. The program provides financial contribution in the form of revenue foregone, which is otherwise due and benefit is thereby conferred. The program is also specific because it is limited to an enterprise that uses raw material that are not locally available. Therefore, this program is noted to be countervailable. However, the benefit under this program is not availed by the cooperating exporters.

xxii. Program 22: Double Deduction for Promotion of Exports

a. Submission by the Domestic Industry

148. The Domestic Industry has submitted that under this program tax deduction is given to exporters for expenses which are aimed at promoting exports and supply of goods overseas, cost of maintaining office overseas for purpose of promotion of services, publicity and advertisements in any media outside Malaysia for promotion of export of services. As evidence of existence of the program, Petitioners have relied on:
    - Section 41 of Promotion of Investment Act, 1986
    - Income tax promotion of export rules 1986
    - WT/TPR/S/292
    - WTO-Notification-G/SCM/N/3/MYS-1995
    - US carbon steel wire rod from Malaysia

b. Submission by Government of Malaysia/other interested parties

149. GOM has submitted that the program which is provided under section 41 of the Promotion of Investments Act (PIA) 1986 (Act 327) read together with rule 4(2) of the Income Tax (Promotion of Exports) Rules 1986 is applicable to all resident trading, manufacturing or agricultural companies in respect of expenses incurred in the basis period primarily and principally for the purpose of seeking opportunities, or in creating or increasing a demand for the export of Malaysian manufactured goods or agricultural products. There are no anticipated changes to the program. The deduction can be carried forward.

150. It has further submitted that the applicant companies are required to make the claim for the incentive by completing forms and substantiate the claims together with copies of business receipts pertaining to the expenses incurred overseas for advertising, travelling and related export promotional expenditure. The original supporting documents must be retained by the company for audit purposes by the IRB.

151. In the case of participation in an international trade fair, companies are required to get a letter of approval from MATRADE.

c. Examination by Authority

152. Authority notes that the program is governed by Section 41 of the Promotion of Investments Act (PIA) 1986 (Act 327) & Rule 4(2) of the Income Tax (Promotion of Exports) Rules 1986. Under this program double deduction from income to enterprise involved in manufacturing, trading and agricultural activities is available for expenses incurred for promotion of export. Expenses incurred by a company for increasing demand for exports are allowed for double deduction.

153. The Authority further notes that the program provides for financial contributions the form of revenue foregone, which is otherwise due, and benefit is thereby conferred. The benefit is the difference between the amount of income tax paid after double deduction and the amount of income tax that would have been payable in absence of such double deduction. The program is also specific because it is contingent on export performance and is limited to an enterprise engaged in export promotion activity. Therefore, this program is noted to be countervailable. However, the benefit under this program is not availed by the cooperating exporters.

xxiii. Program 23: Double Deduction for Promotion of Exports Cargo

a. Submission by the Domestic Industry

154. The Domestic Industry has submitted that under this program an exporter may make a deduction from taxable income for premium insurance on export cargo and regional tax deduction for tax insurance. As evidence of existence of the program, Petitioners have relied on:
    a) Promotion of Investment Act, 1986
    b) Income tax promotion of export rules 1986
    c) Tax incentives for Companies
    d) Other Authority findings

b. Submission by Government of Malaysia/other interested parties

155. GOM has submitted that adouble deduction is allowed to a person who incurs premium on the insurance of cargo exported from Malaysia provided that the risks are insured with an insurance company incorporated in Malaysia. The premium paid must be in accordance to section 33 of Income Tax Act 1967. The assistance is a deduction from taxable income. The deduction can be carried forward.

156. This program has been revoked since 2016. Income Tax (Deductions of Insurance Premiums for Exporters) (Revocation) Rules 2012 is given as evidence.

c. Examination by Authority

157. The Authority notes that the program was governed by Income Tax (Deductions of Insurance Premiums for Exporters) Rules 1995 and is revoked by Income Tax (Deductions of Insurance Premiums for Exporters) (Revocation) Rules 2012 since 2016.

xxiv. Program 24: Allowance for Increased Export

a. Submission by the Domestic Industry

158. The Domestic Industry has submitted that this program is a form of tax incentive granted to companies under section 154(1) of Income Tax Act 1967 and Rule 3 of Income Tax (Allowance for increased exports) Rules 1999 and Income Tax (Allowance for increased exports) amendment Rules 2003. An exporter can avail 70% tax deduction from taxable income for increased exports. Also, if the said allowance is not used during the earned year that can be forwarded to the following assessment year. As evidence of existence of the program. Petitioners have relied on:

a) Promotion of Investment Act, 1986
b) Income tax act 1967
c) Customs Act 1967
d) Sales tax Act 1972
e) Excise Act 1976
f) Free trade zones Act 1990

b. Submission by Government of Malaysia/other interested parties

159. GOM has submitted that a resident manufacturing company or agricultural company that exports manufactured products or agricultural produce is to be given an allowance for increased exports. The assistance is an exemption from taxable income. The allowance can be carried forward. There are no anticipated changes to the program. Income Tax (Allowance for Increased Exports) Rules 1999 is given in evidence. The Rules contain the following definitions:

a. agricultural produce means fresh and dried fruits, fresh and dried flowers, ornamental plants and ornamental fish, frozen raw prawn or shrimp, frozen cooked and peeled prawn and frozen raw cattle, fish and squid;
b. export means direct exports not including sales to Free Industrial Zones and Licensed Manufacturing Warehouses;
c. value added means the sale price of goods at ex-factory price less the total cost of raw materials; and
d. value of increased export means the difference of the Free-On- Board (FOB) value of products exported in the basis period and that of the immediately preceding period. FOB value will exclude the freight charges and insurance cost.

160. The allowance is determined as follows:

a. **Manufactured products**

- ➢ 10% of the value of increased exports of the manufactured products by the company where the products exported attained at least 30% of value added;
- ➢ 15% of the value of increased exports of the manufactured products by the company where the products exported attained at least 50% of value added.

b. **Agricultural products**

- ➢ 10% of the value of increased exports of agricultural produce by the Company.

161. The allowance will be given against seventy per cent of statutory business income of the company. Any export allowance not set off would be carried forward to be set-off against seventy per cent of the statutory income in future years.

c. Examination by Authority

162. Authority has examined the submissions of the Domestic Industry as well as the GOM and the other interested parties. It is noted that a resident manufacturing company or agricultural company that exports manufactured products or agricultural produce is to be given an allowance for increased exports. The allowance is equivalent to 10% or 15% of the value of increased exports of the manufactured products by the company. Allowance will be given against 70% of the statutory business income.

163. Authority further noted that the program provides for financial contribution in the form of revenue foregone, which is otherwise due. The program is also specific because it is contingent on export performance. Therefore, this program is noted to be countervailable. However, the benefit under this program is not availed by the cooperating exporters**.**

xxv. Program 25: Tax Exemptions for Exporters in Free Trade Zones

a. Submission by the Domestic Industry

164. The Domestic Industry submits that Malaysia operates an extensive free zone regime comprising 17 free commercial zones and 18 free industrial zones, which are expressly designed to promote export-oriented activities by providing significant fiscal concessions. Under Section 4 of the Free Zones Act, 1990, goods and services of any description (unless specifically prohibited) may be brought into, produced, manufactured or provided within a free zone without payment of customs duty, excise duty, sales tax or service tax. These statutory exemptions constitute a direct financial contribution by the Government in the form of foregone revenue that would otherwise be due, thereby conferring a benefit on enterprises operating within such zones.

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165. It is further stated that free commercial zones, including major hubs such as Port Klang, permit companies to import raw materials, components, equipment and machinery free of

indirect taxes, substantially lowering input costs and enhancing the competitiveness of export-oriented producers located in these zones. Access to tax-free imports and production within the free zones is contingent upon location and approval under the Free Zones Act, indicating de facto specificity to enterprises operating within these designated areas. Accordingly, the Domestic Industry contends that the free zone regime amounts to a subsidy within the meaning of the SCM Agreement, as it involves government revenue foregone, confers a measurable benefit, and is limited to a defined group of enterprises operating in free commercial and industrial zones.

b. Submission by Government of Malaysia/other interested parties

166. GoM has not provided detailed regional incentive program documentation, but has again stressed the ASCM requirements for evidence and the need for proper justification before including any additional subsidy programs. Both the exporters have simply denied any benefit received under this scheme.

c. Examination by Authority

167. The Authority has examined the submissions made by the Government of Malaysia and other interested parties concerning the existence, nature, and quantification of the alleged subsidy programmes, including fiscal incentives and tax-related measures. The Authority notes that the submissions broadly contest the countervailable character of the alleged program, inter alia, on the grounds that such measures do not involve a financial contribution or confer any measurable benefit, are not specific within the meaning of the applicable legal framework, and, in any event, have not resulted in subsidization of the subject goods during the period of investigation.

168. The Authority observes that the Government of Malaysia has not provided specific details on this program and has objected, on procedural grounds, to its examination without sufficient evidence being submitted under Article 11.2 ASCM. Both the exporters have denied having any benefit under this scheme.

169. The Authority has taken note of the information available on record and finds that the program provides for financial contribution in the form of revenue foregone, which is otherwise due. The program is also specific because it is contingent on export performance. Therefore, this program is noted to be countervailable. However, the benefit under this program is not availed by the participating exporters.

i. Program 26: License Manufacturing Warehouse

170. This program was disclosed through the questionnaire response of the exporter as well as the supplementary response of GoM. The petitioner has not made any submission with respect to this plan. The GoM has not provided any submissions with respect to the program.

c. **Examination by Authority**

171. The Authority notes that the program is administered by Royal Malaysian Customs Department. The program is governed by Section 65 and Section 65A of the Customs Act, 1967.

172. The Authority notes that under this program exemption from customs duties and sales tax is given to all raw materials/components used directly in the manufacturing process of approved products. It is noted from the responses of the cooperating exporter and GoM that only machinery and equipment required for direct manufacturing process of approved final products are eligible for exemption from customs duty and sales tax under this program. Further, machinery/equipment used directly in the manufacturing process in the LMW is exempted from import duty/sales tax.

173. The Authority notes that this program provides exemption of customs duty and Sales tax on all raw materials/components used directly in the manufacturing process of approved products. The subsidy program is also specific because it is contingent on product/enterprise. Xinyi Solar (Malaysia) SDN BHD has admitted to receiving benefit under this program. Therefore, this program is noted to be countervailable.

174. **Xinyi Solar**: The information and documents furnished by the exporter in its response, as well as during the desk verification, denote that the exporter has availed benefits under the program. Accordingly, the Authority notes that countervailing duty is warranted against this subsidy program.

175. **SBH Kibing Solar New Materials (M) SDN. BHD**: It has not availed the benefit under the program. The Authority determines that countervailing duty should not be imposed against this program to the exporter.

F.3.8 Subsidy margin.

176. The subsidy margin determined in the present investigation are as follows:

Subsidy Margin: Xinyi Solar

Program No.	Name of Program	Brief Description	Subsidy Margin	Range %	Nature of Subsidy
Program No. 4	Investment Tax allowance	Exemption of 100% on capital expenditures. The total investment cost on production facilities incurred within the period of ten (10) years from February 2015 can be used to offset the taxable profit incurred	***	0-10	Tax Incentive/ Revenue Foregone

		since year 2015 till the accumulated ITA is fully utilised.			
Program No. 17	Sales tax Exemption	Exemption from payment of sales tax for specific person on acquisition of raw materials, components and packaging material to be used solely and directly in manufacture of taxable goods	***	0-10	Tax Incentive/ Revenue Foregone
Program No. 26	License Manufacturing Warehouse	Exemption from custom duties and sales tax to all raw materials/components used directly in the manufacturing process of approved products regardless of whether the finished products are meant for exports or local market from the initial stage of manufacture until the finished products	***	0-10	Tax Incentive/ Revenue Foregone
			***	0-10	

Subsidy Margin: SBH Kibing SDN BHD

Program No.	Name of Program	Brief Description	Subsidy Margin	Range %	Nature of Subsidy
Program No. 1	Subsidies in Natural Gas	Availability of natural gas at government regulated prices	***	0-10	LTAR
Program No. 4	Investment Tax allowance	Exemption of 100% on capital expenditures. The total investment cost on production facilities incurred within the period of ten (10) years from February 2015 can be used to offset the taxable profit incurred since year 2015 till the accumulated ITA is fully utilised.	***	0-10	Tax Incentive/ Revenue Foregone
Program No. 17	Sales tax Exemption	Exemption from payment of sales tax for specific person on acquisition of raw materials, components and packaging material to be used solely and directly in manufacture of taxable goods	***	0-10	Tax Incentive/ Revenue Foregone

Program No. 20	Sales tax Exemption on Plant and Machinery	Import duty exemption to the qualified manufacturer on raw materials / component that are not locally available	***	0-10	Tax Incentive/ Revenue Foregone
Total			***	0-10	

SECTION III

G. INJURY AND CAUSAL LINK

G.1 Submissions made on behalf of the domestic industry.

177. The domestic industry has submitted as follows on the issue of injury and causal link:

a. Despite the presence of the domestic industry and other producers, the imports have dominated the entire market. The imports from subject country constitute remained significant of the market share during the period of investigation.
b. The subsidized imports are undercutting the prices of the domestic industry which is significantly positive during the period of investigation.
c. The subject imports have continuously caused strain on the prices of the domestic industry as they were priced lower than the selling price of the domestic industry throughout the injury period.
d. In the period of investigation, the landed value of the subject goods was below the cost of sales and selling price of the domestic industry. This clearly shows the price pressure on the domestic industry.
e. The subsidized imports have had a suppressing effect on the prices of the domestic industry.
f. The share of the domestic industry in the demand is a meagre, despite having sufficient capacity to meet the substantial portion of the Indian demand.
g. Due to the constant pressure of subsidized imports, the domestic industry has not been able to dispose of its production sufficiently. As a result, the domestic industry was forced to undertake exports to dispose of their inventories to avoid piling up the goods.
h. In the period of investigation, domestic industry has suffered significant cash losses and a negative return.
i. The domestic industry has also submitted that post POI, imports from Malaysia increased significantly.
j. There is a critical need for the continuation of anti-subsidy duty and enhance the quantum, so that Domestic Industry can be adequately protected post duties from China and Vietnam. Without adequate protection, imports from China would shift from Malaysia, as producers in Malaysia are 100% related companies to Chinese producers namely Xinyi and Kibing.
k. The Domestic Industry emphasizes that injury parameters cannot be analyzed in isolation. Domestic Industry has submitted that both price undercutting and price

depression exist in the present case. Domestic Industry highlights that all relevant economic factors must be evaluated collectively, even if not all of them may indicate injury.

l. Domestic Industry also provided statistical evidence of injury and submitted that increased installed capacity to meet increasing demand, should not be interpreted as an absence of injury, as claimed by the interested parties. They have also highlighted that there is huge increase in the inventories despite higher production, sales and demand, indicating injurious impact of subject goods from subject countries.

m. It is further submitted that verified data on record shows that Domestic Industry is suffering critically as there are losses, negative return on investment, coupled with increased inventories and reduced capacity utilization declining sales realization and losses, worsening financial performance, and reduced market share.

n. In relation to demand and supply gap, the Domestic Industry submitted that Indian producers can meet substantial portion of Indian demand but has faced challenges due to subsidized imports. It is further submitted that despite added module manufacturing capacities, domestic glass production has not gone up essentially due to unremunerative prices on account of incessant dumping / subsidy.

o. In relation to quality claims, Domestic Industry submitted that the quality of its goods is at par with imported goods. It is further submitted that the claims of inferior quality by some parties lack factual evidence, as no supporting data or impact on final products has been provided. In relation to specific issues raised by the interested parties, the Domestic Industry has submitted that most of the issues raised by the interested parties barring some stray instances, are not concerned with the product as such. It has been further submitted that transition from "glass-to-back sheet" to "glass-to-glass", technology has increased demand and is unrelated to quality concerns. Further, issues relating to pasting, blasting during lamination, adhesive failure cannot be attributed to quality of glass. None of the interested parties has provided any evidence to show that their modules were downgraded in quality index by their users because of using subject goods produced by Domestic Industry.

G.2 Submissions made on behalf of the other interested parties.

178. The opposing interested parties have made the following submissions with regard to injury and causal link.

a. Domestic production volumes rose consistently during the period under investigation, disproving claims that imports suppressed production. This growth indicates that the domestic industry managed to increase output despite alleged injury from imports, suggesting that imports did not impede their competitiveness.

b. The injury attributed to imports is overstated because it fails to consider significant external factors, such as raw material price volatility, global inflation, and supply chain disruptions. These factors independently impacted the domestic industry's financial health.

c. The domestic industry’s losses stem from decisions like capacity over-expansion, which strained their financial resources. This expansion resulted in higher

depreciation and interest costs, compounding operational inefficiencies. These self-inflicted issues cannot be attributed to imports.

d. The Domestic Industry's claims of injury rely primarily on alleged adverse price effects from Malaysian imports. However, Malaysia's share in total demand has declined sharply rendering claims of material injury implausible.

e. Demand in India has expanded exponentially and new domestic producers have captured market share, while the Domestic Industry has failed to do so despite operating at high-capacity utilization.

f. The Domestic Industry has also not furnished any analysis establishing likelihood of continuation or recurrence of subsidy or injury, thereby failing the fundamental requirement of a sunset review.

g. Interested parties have highlighted concerns regarding the inability of domestic producers to meet the strict specifications required by global standards for advanced solar modules.

h. That the Domestic Industry does not provide adequate evidence of material injury as required under Annexure I to the Anti-Subsidy Rules. Further, it lacks analysis of key economic parameters such as output, sales, profits, capacity utilization, cash flow, and return on investment, and relies instead on broad unsupported allegations. Without demonstrated deterioration in the domestic industry's performance backed by objective data, the legal threshold to justify initiation is not satisfied.

G.3 Examination by the Authority

179. In consideration of the various submissions made by the interested parties and the domestic industry in this regard, the Authority has examined injury to the domestic industry on account of subsidized imports from the subject countries.

180. Rule 13 of the Subsidy Rules deals with the principles governing the determination of injury which provides as follows:

13. Determination of injury-

(1) In the case of imports from specified countries, the designated authority shall give a further finding that the import of such article into India causes or threatens material injury to any industry established in India, or materially retards the establishment of an industry in India.

(2) Except when a finding of injury is made under sub-rule (3), the designated authority shall determine the injury, threat of injury, material retardation to the establishment of an industry and the casual link between the subsidized import and the injury, taking into account inter alia, the principle laid down in Annexure I to the rule.

(3) The designated authority may, in exceptional cases, give a finding as to the existence of injury even where a substantial portion of the domestic industry is not injured if –

(i) there is a concentration of subsidized imports into an isolated market, and

(ii) the subsidized imports are causing injury to the producers of almost all of the production within such market.

181. In relation to quality issues, it is noted that none of the interested parties has provided any concrete evidence related to technical difficulty in achieving specific quality specifications by the Domestic Industry.

182. The Authority has examined the arguments and counter-arguments of the interested parties with regard to injury to the domestic industry. The injury analysis made by the Authority hereunder addresses the various submissions made by the interested parties.

Volume effect of the subsidized imports

a. Assessment of demand / apparent consumption

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

Particulars	UoM	2021-22	2022-23	2023-24	POI
Imports from Malaysia	MT	91,949	81,937	-	18,916
Imports from Other Countries	MT	1,06,487	3,13,588	8,52,440	7,01,564
Total Imports	MT	1,98,436	3,95,524	8,52,440	7,20,480
% Share of Imports in Total Imports					
Imports from Malaysia	%	46.34%	20.72%	0.00%	2.63%
Imports from Other Countries	%	53.66%	79.28%	100.00%	97.37%
Domestic Sales	MT	***	***	***	***
Trend	Indexed	100	99	240	404
Sales of the Other Producers	MT	***	***	***	***
Trend	Indexed			100	386
Total Demand	MT	***	***	***	***
Trend	Indexed	100	169	380	402

184. From the above table, it is clear that the demand of subject goods in India has increased significantly during the injury period.

185. It is also noted that import of subject goods has declined during the injury period both in absolute value and also in relative terms.

b. <u>Volume of Import and Market Share from Malaysia</u>

186. The Authority records the submission of the Domestic Industry that imports from Malaysia surged during the period when anti-dumping duties were in force against China i.e., from August 2017 to August 2022, clearly indicating diversion of trade by producers from China operating through 100% affiliated entities in Malaysia. Following the revocation of duties against China and the commencement of production and exports from Vietnamese

company having 100% investment by China-owned companies, imports from Malaysia dropped to zero. However, post imposition of provisional anti-dumping duties on China and Vietnam in December 2024, imports from Malaysia have resumed, reaffirming the pattern of shifting to imports from the sources-controlled by Chinese producers. This demonstrates the significance of extension of duties, to arrest the shifting trade routes influenced by the imposition or revocation of duties. The below-mentioned table provides details of the volume of imports and share of subject country in total imports and demand in India.

Year	**UoM**	**2020-21**	**2021-22**	**2022-23**	**POI**
Imports from Malaysia	MT	91,949	81,937	0	18,916
Imports from Other countries	MT	1,06,488	3,13,587	8,52,440	7,01,564
Total Imports	MT	1,98,437	3,95,524	8,52,440	7,20,480
Total Demand (MT)	MT	***	***	***	***
Trend	Indexed	100	169	380	617
% Share in Demand					
Subject country	%	***	***	***	***
Trend	Indexed	100	53	-	5
Other Countries	%	***	***	***	***
Trend	Indexed	100	174	211	164

It is noted that the volume of imports from Malaysia has shown increasing trend in the POI as compared to the immediately preceding years i.e., 2022-23.

c. <u>Imports in relation to Production</u>

187. As stated above, the share of imports from the subject country related to the production has declined to zero in 2022-23 from 88.81% in the base year i.e., 2020-21.

Particulars	UoM	**2020-21**	**2021-22**	**2022-23**	**POI**
Imports from subject country	MT	91,949	81,937	-	18,916
Domestic production	MT	***	***	***	***
Trend	Indexed	100	109	225	360
% Share of subject country in production	%	***	***	***	***
Trend	Indexed	100	82	-	6

d. Price effect of subsidized imports

188. In terms of Annexure I (3) of the Rules, with regard to the effect of the subsidized imports on prices, the Authority is required to consider whether there has been a significant price undercutting by the subsidized imports as compared with the price of the like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increase, which otherwise would have occurred, to a significant degree.

i. Price undercutting

189. Price undercutting has been determined by comparing the net sales realization of the domestic industry with the landed price of the imports for the period of investigation. It is seen that the price undercutting is positive during the period of investigation.

Particulars	Unit	2021-22	2022-23	2023-24	POI
Landed value	Rs./MT	***	***	***	***
Trend	Indexed	100	109	-	73
Domestic selling price	Rs./MT	***	***	***	***
Trend	Indexed	100	97	78	77
Price Undercutting	Rs./MT	***	***	***	***
Trend	Indexed	100	52	-	93
Price Undercutting %	%	***	***	***	***
Price Undercutting %	Range	20-30	10-20	-	30-40

190. It is seen that the price undercutting from Malaysia has consistently remained positive, indicating that Malaysian imports have been priced below the Domestic Industry's selling price throughout the injury period. The Domestic Industry has also claimed that post imposition of provisional duties on China and Vietnam, Malaysian exporters significantly reduced their landed price from Rs. ***/MT in 2021–22 to Rs***/MT in the POI, intensifying price pressure. This sharp decline led to a steep increase in undercutting margin to ***%, severely impacting the Domestic Industry's pricing ability and market position.

ii. Price suppression/depression

191. In order to determine whether the subsidized imports are depressing the domestic prices and whether the effect of such imports is to suppress prices to a significant degree or prevent price increase which otherwise would have occurred in the normal course, the changes in the costs and prices over the injury period, were compared as below:

Particulars	Unit	2021-22	2022-23	2023-24	POI
Cost of sales Domestic	₹/MT	***	***	***	***
Trend	Indexed	100	108	96	86
Selling price	₹/MT	***	***	***	***
Trend	Indexed	100	97	78	77
Landed Price	₹/MT	***	***	***	***
Trend	Indexed	100	109	-	73

192. The Authority notes from the above that the landed value of the imports was below the selling price of the domestic industry throughout the injury period. During the period of investigation, the landed value of the subject goods remained lower than the cost of sales of the domestic industry and its domestic selling price. This prevented the domestic industry from keeping its price in tandem with the cost of sales. It is, therefore, noted that the imports have prevented price increase, which otherwise, would have occurred. Thus, the imports have had suppressing effect on the prices of the domestic industry.

193. Domestic Industry has further submitted that the aggressive pricing by Malaysian exporters has significantly depressed their selling prices, undermining profitability and recovery. Moreover, the demonstrated ability of these exporters to rapidly scale up import volumes within a short span further heightens the threat of intensified injury. These factors clearly indicate a strong likelihood of continued and recurring injury in the absence of trade remedial measures.

iii. **Economic parameters related to the domestic industry**

194. Anti-Subsidy Rules requires that the determination of injury shall involve an objective examination of the consequent impact of subsidized imports on domestic producers of the subject goods. The Rules further provide that the examination of the impact of the subsidized 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 subsidy; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments. The various injury parameters relating to the domestic industry are discussed herein below:

iv. Production, capacity, capacity utilization and sales volumes

195. Capacity, production, sales and capacity utilization of the domestic industry over the injury period were as below:

Particulars	UoM	**2021-22**	**2022-23**	**2023-24**	**POI**
Capacity (MT)	MT	***	***	***	***
Trend	Index	100	112	255	363
Total Production (MT)	MT	***	***	***	***
Trend	Index	100	109	241	348
Production of PUC only (MT)	MT	***	***	***	***
Trend	Index	100	109	225	360
Capacity utilization (%)	%	***	***	***	***
Trend	Index	100	97	95	96
Domestic Sales	MT	***	***	***	***
Trend	Indexed	100	99	240	404
Export Sales	MT	***	***	***	***
Trend	Indexed	100	137	145	166

196. It has been submitted by the Domestic Industry that despite a sharp rise in demand more than sixfold from 2021–22 to the POI, they were unable to fully utilize their capacities, with capacity utilization falling from ***% in the base year i.e., 2021-22 to ***% in the POI. It is further submitted that this mismatch between surging demand and suboptimal

production clearly indicates that the Domestic Industry could not capitalize on market opportunities due to continued injurious effects of unfair imports from sources subject to trade remedial investigations dominated by Chinese producers. It is further submitted by the Domestic Industry that new capacities have been set up and more are planned to meet this increased protection against Malaysia in terms of extension and enhancement of existing duties.

v. Market share

197. The Domestic Industry has claimed that their market share has declined during the POI as compared to the base year i.e., 2021-22. It is further submitted that since 2015, they are under the continued pressure from Chinese exporters, either directly from China[1] or through strategic investments in Malaysia and Vietnam[2]. The information with respect to change in the market share held by the petitioner, imports from China and imports from other countries is as below.

Market share of	Unit	2021-22	2022-23	2023-24	POI
Demand	MT	***	***	***	***
Share in Demand					
Imports from Malaysia	Indexed	***	***	***	***
Trend	Indexed	100	53	-	5
Imports from Other Countries		***	***	***	***
Trend	Indexed	100	174	211	164
Total Imports		***	***	***	***
Trend	Indexed	100	118	113	90
Domestic Sales		***	***	***	***
Trend	Indexed	100	58	63	100
Sales of the Other Producers		***	***	***	***
Trend	Indexed			100	365

198. From the above, it is noted that despite a substantial increase in demand of the subject goods the Domestic Industry's market share remained stagnant at ***% during the POI, reflecting its inability to benefit from rising consumption. Imports from countries attracting duties dominated the market, holding a ***% share in the POI, while Malaysian imports,

[1] Anti-dumping duties on Chinese imports were in effect from 18.08.2017 to 17.08.2022 and fresh duties will be effective from 4.12.2024 to 3.12.2029. during which imports from China declined significantly.
[2] Anti-dumping duties against Vietnam effective from 4.12.2024 to 3.12.2029.

which previously held a significant share, re-entered with ***%. Domestic Industry further submitted that since exporters in Malaysia are controlled by Chinese producers, in no time share of Malaysia will be significant and dominant.

199. The Domestic Industry has further submitted that, for a meaningful assessment of import impact, the Authority should consider the combined share of imports from Malaysia, China, and Vietnam, as these are effectively controlled by the same set of Chinese producers. These exporters, often operating through entities in Hong Kong, strategically use multiple jurisdictions to channel their exports into India. This coordinated arrangement enables convenience of choosing supply source and continues to severely restrict the Domestic Industry's ability to expand its market presence despite rising demand.

vi. Profitability, cash profits and return on investment.

200. Information with respect to profitability, return on investment and cash profits was as follows:

Particulars	UOM	2021-22	2022-23	2023-24	POI
Net Selling price	₹/MT	***	***	***	***
Trend	Index	100	97	78	77
Cost of Sales	₹/MT	***	***	***	***
Trend	Index	100	108	96	86
Profit before Tax	₹/MT	***	***	***	***
Trend	Index	-100	-342	-499	-300
Interest	₹/MT	***	***	***	***
Trend	Index	100	237	670	290
PBIT	₹/MT	***	***	***	***
Trend	Index	-100	-348	-488	-301
Depreciation	₹/MT	***	***	***	***
Trend	Index	100	54	174	257
Cash Profit	₹/MT	***	***	***	***
Trend	Index	-100	-523	-703	-327
ROCE	%	***	***	***	***
Trend	Index	-100	-166	-106	-99

201. The Domestic Industry has submitted that they have expected recovery following the imposition of anti-subsidy duties on imports from Malaysia in March 2021. However, the non-extension of duties against China despite DGTR's positive recommendation alongside increasing imports from Vietnam, allowed Chinese exporters to exploit these alternate routes and flood the Indian market. Domestic Industry has further submitted that throughout this period, Chinese-origin exporters, operating through China, Malaysia, and Vietnam, continued to depress domestic prices, causing sustained injury. This influx of unfairly priced imports eroded the Domestic Industry's profitability, restricted price increases to remunerative levels, and prevented recovery of cash profits and return on capital employed. The Domestic Industry, therefore, requested the Authority to recommend

continuation of anti-subsidy duties to provide effective protection and enable long-overdue recovery.

vii. Productivity, employment, and wages

202. Information with respect to productivity, employment and wages over the injury period is as under:

Particulars	UOM	2020-21	2021-22	2022-23	POI
No of employees	Nos	***	***	***	***
Trend	Indexed	100	138	224	215
Salary & Wages	₹ Lacs	***	***	***	***
Trend	Indexed	100	77	202	475
Productivity per day	MT/Day	***	***	***	***
Trend	Indexed	100	109	225	360

203. It is seen that the number of employees increased over the injury period due to enhancement of the capacities. It is submitted that the productivity of the domestic industry has also increased indicating that increase in employment has not cause any productivity loss. The wages paid have also increased during such period.

viii. Inventories

204. The inventories of the domestic industry have increased in the period of investigation as compared to any of the previous years. The domestic industry has claimed that this shows the injurious effect of the dumped imports. Information with respect to the inventory with the domestic industry is as below:

Particulars	UOM	2020-21	2021-22	2022-23	POI
Average Inventory	MT	***	***	***	***
Trend	Indexed	100	278	415	506

205. The level of inventory of the applicant is significant and highest during the POI as compared to any of the previous years.

ix. Growth

206. The growth also follows the same trend as followed by profitability, cash flow and ROCE. The growth parameters show a negative growth for most of the parameters. The details are provided in the table below.

Particulars	UoM	2021-22	2022-23	2023-24	POI
Production	%	-	9%	106%	60%
Market share of Domestic Industry	%	-	-42%	8%	4%
Capacity utilization	%	-	-3%	-3%	1%
Inventory	%	-	178%	1534%	210%
Profit	%	-	422%	-38%	6%
Cash Profit	%	-	477%	-10%	1%
ROCE	%	-	137%	-34%	5%

x. Ability to Raise Capital Investments

207. The applicant has also claimed that presence of significantly low-priced imports in the market has impacted its ability to raise investments for any additional capacity expansions. It has been submitted that if the present scenario continues, its investment is likely to be highly unutilized and no new investment will come.

208. The Domestic Industry submitted that due to the emphasis of the Government of India on renewable sources of energy, the growth in the Solar energy is imminent. Since the subject goods are used in Solar Module, there is a huge scope of investment in this sector. Even applicants have also increased its capacity to cater to the increased demand. The fact that they got protection against dumped imports from China and also against subsidized imports from Malaysia, new investment had come. Further, duties against China and Vietnam the sector is positive for further investments. However, at this stage, if duties are not continued against Malaysia, Indian market will again be flooded by Chinese imports and protection given against China and Vietnam, will practically become ineffective. In the absence of anti-subsidy duties, there will be no new investment. In view thereof, it has been submitted by the Domestic Industry that seeing the positive demand and legitimate protection against unfair trade practices, the investment option remains open for the Domestic Industry. However, in the event duties are not extended, the ability of the domestic industry to raise capital investments for the sector will be seriously jeopardized.

Conclusion on material injury

209. An examination of the various parameters of injury along with the volume and price effects of imports reveals that imports of subject goods from the subject country during the POI remained constant due to existence of the anti-subsidized duties. However, there is an adverse price effect as evidenced from the table showing price undercutting and price suppression and depression. With regard to impact of adverse price effect on the domestic industry, it is noted that capacity utilization has declined despite increase in demand. Further, it is also noted that profitability, cash profit and ROCE of the domestic industry

have been adversely affected on account of dumped imports of subject goods from the subject country.

Causal Link

xi. **Non-Attribution Analysis**

210. The Rules require the Authority to examine factors other than the subject imports that are causing or may cause injury to the domestic industry to avoid erroneous attribution of injury caused by such other factors to subsidized imports.

211. The Authority notes that the present proceedings are a sunset review and the causal link between subsidization and injury has already been established in the original investigation. The Authority has examined whether other known factors, as provided in the Rules, have caused or are likely to cause injury to the domestic industry.

(i) **Volume and price of imports from third countries**

212. The imports from the countries other than Malaysia and countries already attracting anti-dumping / anti-subsidy duties accounted for less than 3% in total imports. Thus, it cannot be said that imports from other countries are currently causing injury.

(ii) **Export Performance**

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

(iii) **Development of Technology**

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

(iv) **Performance of other products of the company**

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

(v) **Trade Restrictive Practices and Competition between the Foreign and Domestic producers**

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

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

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

(vii) **Contraction in Demand and Changes in pattern of consumption**

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

Examination of injury and causal link:

219. It is thus noted that listed known other factors do not show that the domestic industry could have suffered injury due to these other factors. The Authority examined whether the dumping of the product has caused injury to the domestic industry.:

a) Imports are undercutting the prices of the domestic industry;
b) Positive and significant price undercutting caused by the subsidized imports is preventing the domestic industry from increasing its prices to remunerative levels;
c) Due to the decline in the import prices, the domestic industry is forced to incur losses in the POI;
d) The growth of the domestic industry has been declining in terms of number of price related economic parameters like profit, return on capital employed and cash profits etc., as a result of subsidized imports of the subject goods from the subject country;
e) Market share of the subsidized imports in demand increased and consequently, market share of the domestic industry declined.
f) The inventory level of the PUC of the Domestic Industry was highest during the POI.
g) There were no constraints such as raw material shortages, power shortage, tax, capacity/investment constraints, etc., on the operations of the Domestic Industry concerning the PUC

xii. **Magnitude of Injury and Injury Margin**

220. The Authority has determined Non-Injurious Price (NIP) for the domestic industry on the basis of principles laid down in the Rules read with Annexure-III to the Rules, as amended from time to time. The NIP of the domestic like product has been determined by adopting the verified information/data relating to the cost to make and sell for the period of

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

Producer	**NIP**	**Landed value**	**Injury Margin**	**Injury Margin**	**Injury Margin**
	USD/MT	USD/MT	USD/MT	%	Range
Kibing Group (M) Sdn. Bhd	***	***	***	***	80-90
Xinyi Solar (Malaysia) Sdn. Bhd.	***	***	***	***	40-50
Others	***	***	***	***	80-90

H. Likelihood of continuation or recurrence of subsidization and injury

221. In accordance with Rule 24(3), the Authority is required to examine the likelihood of continuation or recurrence of subsidization and injury in the event of expiry of duties. The Authority has examined all material placed on record relating to the likelihood of continuation or recurrence of injury, along with such other factors relevant to and having a bearing on the question of likelihood of continuation or recurrence of injury.

i. Continued subsidisation

222. The Authority notes that subsidization of the subject goods has continued in the period of investigation in the subject countries. Therefore, the Authority considers that subsidization is likely to continue.

ii. New Investment in Malaysia

223. The Domestic Industry based on the market reports and public information, submitted that new producer i.e., Kibing Solar Glass has set up their new plants to manufacturer subject goods. The details of new investment of subject goods are as follows:

a. Nippon Sheet Glass[3] Co., Ltd.: Their capacities will be operational from fourth quarter of 2024 in Malaysia.
b. Xinyi Solar Malaysia, two[4] lines having capacity of 1200 MT.
c. China-based Kibing Group[5] is set to establish a large solar glass manufacturing plant in Kimanis, Sabah with installed capacity of 25 gigawatts (GW).

224. Based on the above data, Domestic Industry has submitted that with increased capacity and limited demand, in case duties are not extended, there is every likelihood that dumped imports from the subject countries will flood the Indian market to the detriment to the Indian producers.

iii. **Attractiveness of the Indian market:**

225. It is submitted by the Domestic Industry that the Indian market is very attractive to the producers / exporters from Malaysia or Chinese exporters either situated in China, Malaysia or Vietnam. It is further submitted that the demand for the subject goods increased during the injury investigation period. Furthermore, the industry's growth prospects remain strong. It is also submitted that India continues to be an attractive market for foreign producers and exporters, as evidenced by the sustained imports from despite the imposition of anti-dumping duties.

226. In addition to above, Domestic Industry has also submitted that based on the Trade map data India holds fourth position in the export destination for the producers// exporters from Malaysia.

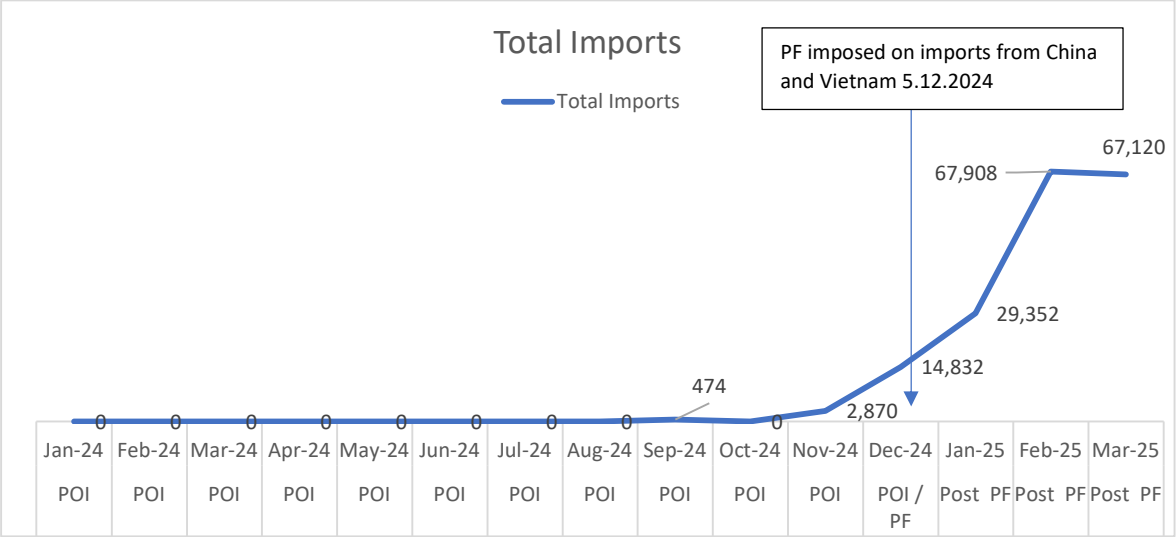
iv. **Increased imports from Malaysia post imposition of anti-dumping duties against China and Vietnam:**

227. It is noted that post imposition of provisional duties against China and Vietnam in December 2024, imports have increased manifold from Malaysia. The month-wise imports during POI and post POI are provided below to show the aggressiveness of the exporters from Malaysia.

Qty-MT	Month	Total Imports
POI	Jan-24	0
POI	Feb-24	0
POI	Mar-24	0
POI	Apr-24	0
POI	May-24	0
POI	Jun-24	0
POI	Jul-24	0
POI	Aug-24	0
POI	Sep-24	474
POI	Oct-24	0

[3] New Production Line of Solar Glass in Malaysia (nsg.com)
[4] Page 11 of interim report 2022 i Xinyi Solar Holdings Limited
[5] https://www.saurenergy.asia/kibing-group-to-build-usd-1-5-billion-solar-glass-plant-in-malaysia/

POI	Nov-24	2,870
POI / PF	Dec-24	14,832
Post PF	Jan-25	29,352
Post PF	Feb-25	67,908
Post PF	Mar-25	67,120
Grand Total		
Imports during POI		**18,916**
Imports (Jan-March 25) Post imposition of PF		**1,64,380**



228. From the above graph, the Authority observes that the imports have increased substantially, post imposition of duties against China and Vietnam in December 2024, indicating clear likelihood of increased subsidized imports and injury to the Domestic Industry.

229. The Authority also notes the submissions of the Domestic Industry that, in view of the significant surplus capacities in Malaysia and the rising trend of imports post-POI there is a high probability that exports from Malaysia will once again flood the Indian market. This reinforces the critical need for extension and enhancement of anti-subsidy duties. The Domestic Industry has claimed that they will provide further substantiation of this likelihood during the course of the investigation, and its claims. The Authority during the course of the investigation will verify the projections through actual data submitted by Malaysian producers/exporters / government during the investigation process.

v. **Likely Quantities below the Non-injurious Price of the domestic industry**

230. It is noted from the responses of the cooperative exporters that Malaysian exporters have exported ***MT of the subject goods to countries other than India. Out of this quantity, ***MT is priced below the NIP computed by the Authority. The details are provided in the Table below:

Particulars	UOM	Xinyi	Kibing	Total
Quantity exported to third countries	MT	***	***	***
Quantity exported below NIP	MT	***	***	***
% of quantity below NIP (injurious quantity)	%	***	***	***
Range	%	70-80	70-80	70-80

vi. **Likely Quantities below the Domestic Sales price of the domestic industry**

231. It is also noted from the responses of the cooperative exporters that Malaysian exporters have exported ***MT of the subject goods to countries other than India. Out of this quantity, ***MT is priced below the domestic sales prices of the domestic industry. The details are provided in the Table below:

Particulars	UOM	Xinyi	Kibing	Total
Quantity exported to third countries	MT	***	***	***
Quantity exported below Domestic Sales Price	MT	***	***	***
% of quantity below Domestic Sales Price	%	***	***	***
Range	%	30-40	60-70	40-50

I. ISSUES OF THE INDIAN INDUSTRY

I.1 Submissions made by other interested parties

232. The other interested parties, including users and downstream solar module manufacturers, have inter alia submitted that:

i. Imposition or continuation of countervailing duties may increase procurement costs of textured tempered glass ("TTG"), which constitutes an important input for solar photovoltaic modules.

ii. Any increase in input cost may adversely impact competitiveness of downstream manufacturers operating in a globally competitive renewable energy market.

iii. The solar manufacturing sector is capital intensive and price sensitive; therefore, higher glass prices could affect module pricing, exports, and project viability.

iv. It has been argued that domestic availability of specialized variants of TTG, including advanced or application-specific glass used in newer module technologies, remains limited and downstream users may continue to depend on imports to ensure uninterrupted production.

v. Concerns were also raised that restrictions on imports may affect product quality, technological flexibility, and supply reliability for module manufacturers.

I.2 Submissions made by the Domestic Industry

233. The domestic industry has submitted that:

i. The objective of countervailing duty is to neutralize unfair subsidization and restore fair competition rather than restrict imports.

ii. The domestic industry has made substantial investments in TTG manufacturing and possesses the technical capability to supply the Indian market, while ongoing and planned capacity expansions are expected to improve supply availability.

iii. The presence of a viable domestic industry ensures supply security for a strategically important product used in solar energy generation.

iv. The impact of duties on downstream products is minimal because TTG constitutes only a small proportion of the total cost of solar modules.

v. Continuation of unfairly subsidized imports would undermine domestic manufacturing, discourage investments, and increase long-term import dependence, which would be contrary to national objectives of supply chain resilience and "Atmanirbhar Bharat".

vi. A healthy domestic industry historically contributed to price stability and market development and therefore supports, rather than harms, downstream industries.

I.3Examination by the Authority

234. The Authority notes that the purpose of countervailing duties under the Customs Tariff Act and Anti-Subsidy Rules is to offset the injurious effect of subsidized imports and to restore conditions of fair competition in the domestic market. Such measures are not intended to restrict availability of goods or create artificial price escalation but to neutralize distortions caused by actionable subsidies.

235. The Authority invited views from all stakeholders, including producers, importers, users, and downstream industries, and circulated Economic Interest Questionnaires seeking information regarding:

- interchangeability of supplies,
- availability of domestic production,
- impact of duties on downstream industries,
- adjustment capability of users, and
- effect on consumers and national industrial interest.

236. While downstream users expressed concerns regarding possible cost implications, the Authority notes that no verifiable financial analysis or quantified evidence was submitted demonstrating material adverse impact on profitability, exports, or employment of downstream manufacturers.

I.4 Demand, Supply and Strategic Considerations

237. The Authority observes that TTG is a critical input used in solar photovoltaic modules, a sector witnessing rapid expansion in India owing to renewable energy targets. Evidence on record indicates that demand growth is driven by technological transition towards glass-to-glass modules and higher efficiency solar panels, resulting in increased glass consumption.

238. The Authority further notes that while demand has expanded rapidly, continuation of subsidized imports at unfair prices would undermine domestic manufacturing viability and

discourage further investments necessary to bridge the demand–supply gap in the medium term.

I.5 Availability of Product

239. The Authority notes that imposition or continuation of countervailing duty does not prohibit imports. Imports may continue to enter the Indian market, albeit at fair and unsubsidized prices. Therefore, availability of TTG to downstream users is unlikely to be adversely affected.

240. The Authority further observes that multiple sources of supply remain available, including domestic producers, imports from subject country at fair prices, and imports from other countries.

I.6 Impact on Downstream Industry

241. The Authority has examined the likely impact of duties on downstream solar products. Based on information placed on record, the share of TTG in the total cost of downstream products remains limited. The estimated impact is illustrated below.

I.7 Estimated Impact of Duty on Downstream Products

The Authority, however, notes that the possible impact of the anti-subsidy duties on the end consumers in the following table:

Particulars	Reference	UoM	Amount
Price of 540 Wp solar module based on M10 solar cells	A	Rs. / Module	9,000
Subject goods used in 540 Wp solar module based on M10 solar cells	B	Kgs./Module	20.05
Price of Subject goods – Coated	C	Rs./Kg.	42.01
Costs of subject goods build in 540 Wp solar module based on M10 solar cells	D=C*B	Rs/MT	842
% cost of subject goods in Module	E=D/A	%	9.36%
Additional cost on Module due to 10% anti subsidy duties on subject goods	F=D*10%	Rs/MT	84
Total cost of subject goods in module adding anti-dumping duties	G=D+F	Rs/MT	927
% cost of subject goods in Module	H=G/A	%	10.30%
Additional impact per Solar Module due to anti-dumping duties	I=F/A	%	0.94%

Source: Authority's analysis based on submissions on record.

242. The Authority notes that even assuming full pass-through of duties, the impact on final downstream products remains well below 1%**,** which is economically insignificant in

comparison to overall module pricing fluctuations driven by global polysilicon, wafer, and logistics costs.

J. POST-DISCLOSURE SUBMISSIONS

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

J.1 Submission made by the Domestic Industry

244. The submissions made by the Domestic Industry are as under

i. That the responses filed by the so-called participating producers/exporters, Xinyi and Kibing, ought to be disregarded as they have withheld critical information and misled the Authority by submitting incomplete and inaccurate data. These deficiencies have a direct and significant impact on the determination of subsidy margins and undermine the integrity of the investigation.

ii. The exporters have, also failed to disclose the involvement of related companies in export sales, while Kibing has not reported regional subsidies despite publicly available evidence. It is further submitted by the Domestic Industry that there are indications that Xinyi may be benefitting from gas-related subsidies which require verification.

iii. That any leniency extended to such exporters would amount to rewarding non-compliance and misrepresentation. Domestic Industry has further also submitted that the Authority has previously taken a strict view in similar situations and the same approach is warranted here in order to ensure that only complete, accurate, and verifiable information is relied upon in the determination and reject the exporter questionnaire responses of Xinyi and Kibing and subject them to residual anti-subsidiary duty based on facts available on record.

iv. The Authority is also requested to confirm in the final findings that the subject goods are also known as heat-strengthened glass. It is further requested to confirm that the Government of Malaysia continues to provide subsidies, and that subsidized imports are causing material injury to the Domestic Industry.

J.2 Submissions made by the other interested parties

245. The submissions made by the other interested parties are as under:

i. The Domestic Industry violated confidentiality provisions by not adequately disclosing documents relied upon for subsidy allegations and by treating publicly available financial statements as confidential

ii. The Domestic Industry has already enjoyed prolonged protection through ADD and CVD measures and that further continuation would amount to undue and perpetual protection, contrary to the temporary and remedial nature of trade remedies.

iii. Kibing claims it cooperated fully and disclosed participation in programs such as natural gas, investment tax policies, sales tax exemptions, and import duty exemptions. It argues that benefits under the Investment Tax scheme were not received by the respondent itself

and that exemptions on machinery imports arose from FTA concessions (Form-E), which allegedly cannot constitute a financial contribution or specific subsidy.

iv. The Domestic Industry has expanded capacity, production, investment, employment, and exports, showing positive performance trends. It argues that any decline in profitability is due to expansion costs, internal inefficiencies, and business decisions rather than Malaysian imports, and that injury claims are exaggerated or artificial. It is further submitted that imports from Malaysia have declined overall and that any surge in total imports is attributable to China and Vietnam. It is further submitted that imports from Malaysia were necessary to bridge demand–supply gaps and that cumulative assessment with other countries lacks evidentiary basis.

v. The Disclosure Statement does not establish likelihood of continuation or recurrence of injury, contending that the Domestic Industry has expanded capacity and sales, imports from Malaysia have declined, and no causal link has been demonstrated. It further argues that the Authority's likelihood conclusions are speculative and unsupported by evidence of surplus capacity, export orientation toward India, or any basis to assume a potential surge of imports.

vi. Kibing disputes the finding that its exports undercut or suppress domestic prices and claims its landed value reflects fair market pricing and requested termination of the investigation on the grounds that subsidy, injury, and causal link are not established.

vii. Continuation of duties would adversely affect downstream solar and renewable sectors by restricting access to competitively priced glass, increasing module costs, and burdening consumers. It further contends that the Domestic Industry has strengthened its position and that continuation of the measure would undermine fair competition and public interest.

viii. Xinyi Solar has requested the Authority to reexamine and recompute landed value by adding freight and insurance to FOB transactions. They have also requested the Authority to consider average useful life of assets as 16.72 years instead of 10 years, as the same is inconsistent with the Company's audited financial statements prepared under GAAP.

ix. That Sales and Services Tax on raw materials used for export production is either exempt or refunded, so no residual tax burden remains. Therefore, SST cannot constitute a financial contribution or confer a benefit and should not be treated as a countervailable subsidy. Xinyi compares this mechanism to India's GST zero-rating of exports.

x. Xinyi argues that the findings of the original investigation are under challenge before CESTAT and therefore cannot be presumed final. Since the legality and quantification of alleged subsidies are under judicial examination, continuation of duty based on those findings would be premature and legally vulnerable.

J.3 Examination by the Authority

246. The Authority notes that most of the submissions made by interested parties are repetitive in nature and were already addressed earlier in the disclosure statement. The findings above *ipso facto* deal with these arguments of interested parties. Further, the Authority has examined submissions of interested parties herein below to the extent relevant and not addressed elsewhere.

247. As regards the contention of the Domestic Industry that the responses filed by the participating exporters are incomplete and misleading, the Authority notes that the information submitted by the exporters has been examined in accordance with the applicable Rules and, where necessary, verified to the extent feasible. The determination of subsidy margins has been based on verified information on record, supplemented where appropriate by facts available in instances of gaps or inconsistencies. Accordingly, the Authority does not find sufficient grounds to disregard the exporter responses in their entirety and has relied on the information considered appropriate for the purpose of the determination.

248. As regards submission made by the Domestic Industry related to involvement of related entities in the exports to India, non-reporting of alleged regional subsidies, and possible gas-related benefits by participating exporter, the Authority clarifies that the assessment of subsidization in the present investigation is based on information placed on record by the exporters, responses to verification queries, and other evidence examined during the course of the investigation. Wherever additional clarification was required, the Authority sought and evaluated relevant information and has reflected its conclusions in the subsidy determination accordingly. Allegations based solely on indicative or publicly available material, without supporting verifiable evidence demonstrating actual receipt of benefits, do not by themselves justify modification of the findings beyond what has already been established on record.

249. The Authority does not agree with the Domestic Industry's contention that reliance on exporter responses would amount to rewarding non-compliance. The Authority's determination is not based on any presumption of cooperation but on an objective examination of the information placed on record, verified data, and, where warranted, facts available in accordance with the Rules. The Authority has exercised due diligence in assessing the completeness and reliability of the information furnished and has drawn appropriate conclusions based on verified data. Accordingly, the allegation that the Authority has shown leniency or departed from its established practice is not correct.

250. The Authority has examined the Domestic Industry's submissions regarding the description of the product under consideration and the existence of subsidization and injury. The findings on these aspects have been addressed in the relevant sections of the Final Findings on the basis of the evidence on record.

251. As regards the claim of confidentiality by Domestic Industry, the Authority observes that confidentiality claims are examined in accordance with the applicable Rules, and information is treated as confidential only where good cause is shown. The Authority further ensures that adequate non-confidential summaries are placed on record to enable interested parties to reasonably understand the substance of the information relied upon. Interested parties have not demonstrated that they are prevented from effectively defending its interests in the investigation and therefore, this contention is without merit.

252. In relation to submission that continuation of duties would amount to prolonged protection for the Domestic Industry, the Authority, notes that trade remedial measures are continued

only where, upon an objective examination in a sunset review, cessation of the measure is likely to lead to continuation or recurrence of subsidization and injury. The continuation of a duty is thus not automatic nor protective in nature, but is strictly contingent upon the existence of unfair trade practices and their injurious effects. The exporter has not placed any evidence on record to demonstrate that subsidization has ceased or that the Domestic Industry would remain insulated from injury in the absence of the measure. Accordingly, the Authority finds that continuation of the duty, where warranted by the facts, does not constitute undue protection but remains a legitimate remedial response, and thus contention of the exporters is not correct.

253. As regards the contention that Kibing has fully cooperated and that certain program either did not confer benefits or arose merely from FTA concessions, the Authority, notes that during the course of verification, it identified the existence of certain subsidy elements which were not initially claimed or adequately substantiated by the exporter. The determination of subsidization in the present investigation is therefore based on verified information obtained during verification, supplemented where necessary by facts available in instances where complete or reliable information was not furnished. The Authority emphasizes that the use of verified data and, where warranted, best information available, is consistent with the Rules and ensures an objective assessment of subsidization. Even post disclosure comments also, exporter has not substantiated their claims and therefore, the contention that Kibing has suffered prejudice in the determination of subsidy margins is unfounded.

254. As regards contention that the Domestic Industry is not suffering any injury or injury is not on account of Malaysia, it is noted that that improvement in certain parameters does not preclude the existence of injury where the evidence on record demonstrates price suppression, adverse profitability trends, and vulnerability of the Domestic Industry in the event of cessation of duties. The exporter has not placed substantiated evidence to demonstrate that imports from Malaysia were at non-injurious prices or they are not getting any subsidy from the Government of Malaysia, or that they did not exert adverse price effects on the Domestic Industry. Further, the assertion that imports merely bridged demand–supply gaps or that cumulative assessment is unwarranted remains unsupported by verifiable data. The Authority therefore finds that submissions are based on selective interpretation of indicators and do not rebut the injury and likelihood analysis on record, and accordingly rejects the same

255. The Authority has re-examined the landed value calculation and used the corrected landed value for the purpose of present final findings. in relation to submission of average useful life, the Authority notes that the data on record shows that the Authority has correctly considered the average useful life of assets as 10 years based on verified information submitted by the exporter.

256. The contention of the exporter that Sales and Services Tax (SST) on inputs used for export production is either exempt or refunded and therefore cannot constitute a countervailable subsidy is misplaced. Under the subsidy framework, remission or exemption of indirect taxes on inputs can be treated as a financial contribution where such remission exceeds the

amount actually levied on inputs consumed in the production of exported goods or where the scheme is not strictly limited to neutralization of prior-stage taxes. The exporter has not demonstrated, with verifiable evidence, that the SST exemption/refund mechanism operates as a permissible duty drawback system strictly limited to inputs consumed in the exported product. In the absence of a transparent and product-specific verification mechanism ensuring that remission does not exceed taxes actually incurred, such tax foregone constitutes revenue otherwise due to the government and therefore represents a financial contribution conferring a benefit. The comparison with India's GST zero-rating framework is inapposite, as the countervailability of a measure must be examined on the basis of its design, operation, and verification in the exporting country. Accordingly, the Authority considers that the SST treatment extended to the exporter is countervailable in nature.

257. As regards, the contention of the Xinyi that the findings of the original investigation are under challenge before the Hon'ble CESTAT and therefore, cannot be presumed final. In this regard, the Authority observes that the mere pendency of an appeal does not render the findings of the original investigation inoperative or devoid of legal effect. Unless and until the findings are set aside or modified by a competent appellate forum, they continue to remain valid and enforceable.

258. As regards submission that likelihood findings are unsupported by any positive evidence and amounts to mere assertion, it is noted that likelihood analysis in a sunset review is necessarily prospective and is based on objective evaluation of subsidization, market conditions, and exporters' ability and incentive to increase shipments in the absence of measures, and the Authority in the sunset review has examined if subsidization and injury would cease or not recur upon expiry of the duty.

259. With regard to the submission related to extension of duties would not be public interest, it is noted that the said claims are unsubstantiated and unsupported by any evidence on record. Countervailing duties are imposed to neutralize the injurious effects of subsidized imports and restore fair competition, and cannot be construed as a restriction on legitimate supply. In the absence of substantiated evidence demonstrating any disproportionate adverse impact on downstream industries or consumers, the Authority finds no merit in the contention and rejects the same.

K. CONCLUSION

260. The Authority, upon examination of the issues raised in the course of the proceedings, arguments advanced by all interested parties and the facts and evidence on record, concludes as follows:

a. The application for the present sunset review has been filed by M/s Borosil Renewables Limited (BRL) and Vishakha Glass Pvt. Ltd. (VGPL). The costing and injury data, as per the prescribed formats, is based on their data. The applicants satisfy the requirement of standing and constitute 'domestic industry' within the meaning of Rules 6(3) and 2(b) of the CVD Rules, 1995.

b. The scope of the product under consideration determined at the time of the original investigation does not warrant revision. Therefore, the product under consideration 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. However, for the same of clarity, the Authority has added Heat Strengthened Glass as one of the other names of the product under consideration.

c. The goods manufactured by the domestic industry are like article to the subject goods imported from Malaysia.

d. The Government of Malaysia has not filed response for the 'new subsidies' investigated in the sunset review. Therefore, determinations in respect of these schemes have been made based on facts available

e. The interested parties have not produced any evidence of termination of previously countervailed schemes. Further, the previously countervailed schemes have been countervailed in subsequent investigations. Therefore, the Authority considers that the schemes countervailed in the original investigation have continued in the present period of investigation.

f. Producers of the subject goods in Malaysia have continued to benefit from countervailable subsidies.

g. The position of the domestic industry is vulnerable during the present period of investigation. Further, based on the evidence on record, there is clear indication of likelihood of continuation or recurrence of subsidisation and injury from Malaysia in the event of cessation of duties.

h. Based on the information on record, it is seen that the producers from Malaysia are export oriented. The producers have set up capacities which far exceed the demand in the country.

i. The exports from Malaysia to other countries are at injurious prices and there is a likelihood of injury to the domestic industry in event of expiry of measures.

L. RECOMMENDATIONS

261. The Authority notes that the present proceedings were conducted in accordance with the applicable law. All interested parties were duly notified and were afforded adequate opportunity to provide information and present their views on the matters under investigation, including subsidisation, injury, causal link, likelihood of continuation or recurrence of subsidisation and injury and impact of the measures on the Indian industry.

262. Having concluded that there is positive evidence of likelihood of subsidisation and injury if the existing countervailing duties are allowed to cease, the Authority is of the view that the anti-subsidy/countervailing duties in force on the imports of the product under consideration from the subject country is required to be continued further. Considering the facts and circumstances of the case, as established hereinabove, the Designated Authority considers it appropriate to recommend continuation of the existing anti-

subsidy/countervailing duties on the imports of the subject goods from the subject country. Accordingly, the anti-subsidy/countervailing duties for producers from Malaysia are recommended as per duty table below.

263. Having determined that there is likelihood of continuation/recurrence of subsidy and injury to the domestic industry in the present matter if the existing countervailing duties is withdrawn, it is considered appropriate to continue the existing countervailing duties on import of subject goods from Malaysia without any modification in the current quantum of duties keeping in view the factual matrix of the present investigation.

264. However, the Authority also notes that an exporter namely Kibing Group (M) Sdn. Bhd (Kibing) has participated in the present sunset review investigation who did not participate at the time of original investigation. The exporter has cooperated during the present sunset review and the data submitted by the exporter was also verified by the Authority through desk verification. In the factual matrix of the present investigation, the Authority deems it appropriate to determine individual countervailing duty rate for Kibing. However, keeping in view the fact that there is a likelihood of continuation/recurrence of subsidy and injury in the event of expiry of existing countervailing duty in the present investigation, quantum of countervailing duty for the said producer/exporter cannot be determined solely based on the principle of countervailing duty equal to the margin of subsidy or less like in a fresh investigation as provided under Rule 4 (d). The current countervailing duty applicable on imports of subject goods from Malaysia covers countervailing duty that was determined by the Authority for the cooperating producer/exporter who participated in the original investigations and also the duties applicable for the non-cooperative producers/exporters. Since the existing countervailing duties is being recommended to be continued on the imports of subject goods from subject country in the present sunset review, the Authority deems it appropriate to recommend the existing countervailing duty rate applicable for the cooperating exporter for Kibing also.

265. Thus, in terms of the provision contained in Rule l9(1)(b) read with Rule 24 (3) of the Anti-Subsidy Rules, the Authority, considers it appropriate and necessary to recommend continuation of existing countervailing duties equal to the figure indicated in Column 7 of the duty table below for a period of five (5) years on all imports of the subject goods from Malaysia. Therefore, considering the facts and circumstances of the case, as established hereinabove, countervailing duty equal to the amount indicated in Column 7 of the duty table given below is recommended to be imposed from the date of notification to be issued in this regard by the Central Government, on all imports of the subject goods, originating in or exported from Malaysia.

Duty Table

S. No.	Tariff Heading/ Subheading	Description of Goods	Country of Origin	Country of Export	Producer	Duty as % of CIF
1	2	3	4	5	6	7
1	7003, 7005, 7007, 7016, 17020 and 8541*	Textured Toughened (Tempered) Coated and Uncoated Glass**	Malaysia	Malaysia	Xinyi Solar (Malaysia) Sdn. Bhd.	9.71%
2	-do-	-do-	Malaysia	Malaysia	SBH Kibing Solar New Materials (M) SDN. BHD	9.71%
3	-do-	-do-	Malaysia	All country including Malaysia	Any Producer other than producer mentioned in S. No. 1 & 2	10.14%
4	-do-	-do-	Any Country other than Malaysia	Malaysia	Any	10.14%

* *The application of the individual duty rates specified for the companies mentioned in the above shall be conditional upon presentation to customs authorities of a valid commercial invoice, on which shall appear a declaration dated and signed by an official of the entity issuing such invoice, identified by his/her name and function, drafted as follows: 'I, the undersigned, certify that the (volume) of (product concerned) sold for export to the India covered by this invoice was manufactured by (company name and address) in Malaysia. I declare that the information provided in this invoice is complete and correct.' If no such invoice is presented, the duty applicable to all other companies shall apply. This requirement is without prejudice to the verification procedures independently undertaken by the Customs authorities under the applicable customs law and regulations."*

** *The customs classification is only indicative and not binding on the scope of the product under consideration.*

****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. The product is also known by various other names such as solar glass, solar glass low iron, solar PV glass, high transmission photovoltaic glass, tempered low iron patterned solar glass and heat strengthened glass.*

266. Landed value of imports for the purpose of this Notification shall be the assessable value as determined under the Customs Act, 1962 (52 of 1962) and includes all duties of customs except duties under sections 3, 3A, 88, 9 and 9A of the said Act

M. Further Procedure

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

Amitabh Kumar

Designated Authority.