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**GOVERNMENT OF INDIA
MINISTRY OF COMMERCE & INDUSTRY
DEPARTMENT OF COMMERCE
DIRECTORATE GENERAL OF TRADE REMEDIES**

FINAL FINDINGS

**Countervailing (Anti-Subsidy) investigation concerning imports of "Clear Float Glass"
originating in or exported from Indonesia and Malaysia**

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F. No. 6/36/2025-DGTR
Government of India
Department of Commerce
Ministry of Commerce & Industry
Directorate General of Trade Remedies
4th Floor, Jeevan Tara Building, 5, Parliament Street, New Delhi – 110001

FINAL FINDINGS
Case No. – CVD(OI) – 05/2025

Subject: Countervailing / Anti-subsidy investigation concerning imports of Clear Float Glass originating in or exported from Indonesia and Malaysia.

A. BACKGROUND OF THE CASE

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, as amended from time to time (hereinafter referred as the “CVD Rules” or “the Rules”);

1. M/s Gold Plus Float Glass Pvt. Ltd., M/s Gold Plus Glass Industry Ltd., M/s Saint-Gobain India Pvt. Ltd. and M/s Sisecam Flat Glass India Ltd. (hereinafter also referred to as “the Applicants” or “the Domestic Industry” or “the DI”) had filed an application before the Designated Authority (hereinafter also referred to as “the Authority”) in accordance with the Customs Tariff Act, 1975 (hereinafter also referred to as “the Act”) and the Countervailing Duty Rules, as amended from time to time, for imposition of countervailing / anti-subsidy duty on imports of “Clear Float Glass” (hereinafter also referred to as “the subject goods”) originating in or exported from Indonesia and Malaysia (hereinafter also referred to as “the subject countries”).

2. The Authority, on the basis of sufficient evidence submitted by the Applicants, issued Notification No. 6/36/2025-DGTR dated 29.09.2025, published in the Gazette of India Extraordinary, initiating the subject investigation in accordance with **Rule 6** of the above Rules, to determine the existence, degree and effect of the alleged subsidization of the subject goods originating in or exported from the subject countries, and to recommend the amount of anti-subsidy duty which, if levied, would be adequate to remove the alleged injury to the domestic industry.

B. PROCEDURE

3. The procedure described herein below has been followed by the Authority with regard to the subject investigation:

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- i. The Authority received a written application from the Applicants on behalf of the domestic industry, alleging subsidisation of Clear Float Glass from Indonesia and Malaysia.
- ii. The Authority notified the Government of Malaysia and the Government of Indonesia, through their missions in India, of the receipt of the anti-subsidy application before proceeding to initiate the investigation, in accordance with sub-rule (5) of Rule 6 of the Rules, and invited both Governments for consultations with the aim of clarifying the situation and arriving at a mutually agreed solution in accordance with Article 13 of the SCM Agreement. Consultations were held on 09.09.2025 with the representatives of the Government of Malaysia and on 12.09.2025 with the representatives of the Government of Indonesia. Both Governments were furnished with the non-confidential version of the application setting out the programmes alleged and were afforded an opportunity to comment on each. No mutually agreed solution was reached with either Government, whether generally or in respect of any individual programme. The written submission of the Government of Malaysia on consultation under Article 13.1 and the consultation paper of the Government of Indonesia dated 12.09.2025 have been taken on record and the contentions raised therein have been addressed programme-wise in relevant Section.
- iii. The Authority issued a notification dated 29.09.2025 published in the Gazette of India Extraordinary, initiating the anti-subsidy investigation concerning imports of the subject goods from Indonesia and Malaysia.
- iv. A copy of the public notice was forwarded by the Authority to all known exporters of the subject goods, to the Governments of the subject countries through their missions in India, and to other interested parties, in accordance with **Rule 7(2)** of the Rules.
- v. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters, to the Governments of the subject countries and to other interested parties who made a request therefore in writing, in accordance with **Rule 7(3)** of the Rules.]
- vi. The Authority sent the Exporter's Questionnaire to the following known producers/exporters to elicit relevant information in accordance with the Rules:
 - a. PT Mulia Industrindo Tbk, Indonesia
 - b. Kibing Group (M) Sdn. Bhd., Malaysia
 - c. Xinyi Energy Smart (Malaysia) Sdn. Bhd., Malaysia

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- vii. The Governments of the subject countries, through their missions in India, were also requested to advise the exporters and producers in their country to respond to the questionnaire within the prescribed time limit. A copy of the letter and questionnaire sent to the known producers/exporters was also sent to the missions along with the names and addresses of the known producers/exporters.
- viii. In response to the notification, the following filed responses:
- a. Government of Indonesia
 - b. Government of Malaysia
 - c. PT Muliaglass, Indonesia
 - d. Xinyi Energy Smart (Malaysia) Sdn. Bhd, Malaysia.
 - e. Kibing Group (M) Sdn. Bhd, Malaysia.
 - f. Jinjing Technology Malaysia Sdn. Bhd.
 - g. Qingdao Rexi, Malaysia.
- ix. The Authority notes that Jinjing Technology Malaysia Sdn. Bhd. filed its response voluntarily; no Exporter's Questionnaire having been issued to it. Its response being complete and having been examined and verified, it has been treated as a cooperating producer/exporter and an individual subsidy margin has been determined for it.
- x. Qingdao Rexi is a trader and not a producer of the subject goods. Its response has not been relied upon for the determination of an individual subsidy margin, and exports made through it attract the rate applicable to the producer of the goods, subject to the conditions set out in Section S.
- xi. The Authority forwarded a copy of the public notice along with the Importer's Questionnaire to 35 known importers, users and user associations of the subject goods in India, and to the All India Flat Glass Manufacturers Association, ASSOCHAM, FICCI and CII, advising them to make their views known in writing within the time limit prescribed, in accordance with Rule 7(4) of the Rules. None of the importers or users filed any response, submission or representation.
- xii. The Authority made available the non-confidential versions of the evidence presented by the interested parties in the form of a public file kept open for inspection by the interested parties.
- xiii. A request was made to the Directorate General of Commercial Intelligence and Statistics and to DG-Systems, Central Board of Indirect Taxes and Customs, to provide transaction-wise details of imports of the subject goods for the injury period. The Authority has relied upon DG-Systems data for computation of the volume and value of imports, to correlate the quantum of exports from specified exporters and to validate the responses filed, to the extent feasible.

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- xiv. The Authority has examined the import data submitted by the exporters/producers from Indonesia and has corroborated the same with the import data obtained from DG Systems. Based on the data so examined and corroborated, the Authority has found that the volume of imports of the subject goods from Indonesia during the period of investigation was less than 4% of the total imports of the subject goods.
- xv. In terms of Rule 16(1)(d) of the Customs Tariff (Identification, Assessment and Collection of Countervailing Duty on Subsidized Articles and for Determination of Injury) Rules, 1995, the Authority is required to terminate an investigation immediately where, in the case of a product originating in a developing country, the volume of the subsidised imports represents less than four per cent of the total imports of the like product into India, unless imports from developing countries whose individual shares are each below four per cent collectively account for more than nine per cent of such total imports. The individual share of Indonesia and the collective share of all such countries have both been examined, and both fall below the respective thresholds, for the reasons recorded in relevant section under the heading of negligibility of import volumes. Accordingly, having regard to the import volume established on the basis of the verified data, the investigation in respect of Indonesia is terminated under Rule 16(1)(d). In view thereof, the Authority has not proceeded to examine the existence of subsidisation in Indonesia and has not determined any subsidy margin in respect of that country, termination under Rule 16(1)(d) operating upon the volume of imports and not upon the amount of subsidization.
- xvi. The Authority carried out desk verification of the responses filed by the Governments of the subject countries and by each of the participating producers/exporters, examining the responses against the supporting records furnished, including audited financial statements, tax returns and assessments, customs entries, utility invoices, land agreements, approval letters and subsidy calculation sheets. On completion of desk verification, the Authority sought further clarifications and additional information from the participating producers/exporters, inter alia in respect of subsidy programmes countervailed by other authorities in respect of the subject goods and the reasons advanced for their non-applicability, policy lending, land, exemptions from import duties and sales taxes, the provision of electricity, investment-linked tax allowances, and benefits received through related and cross-owned entities. The responses furnished have been examined and are addressed in relevant Section.
- xvii. The Non-Injurious Price based on the optimum cost of production and cost to make and sell the subject goods in India, based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles, has been worked out

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

- xviii. The period of investigation (POI) for the purpose of the present investigation is from 1st April 2024 to 31st March 2025 (12 months). The injury investigation period covers the data of the previous three years, i.e. April 2021 to March 2022, April 2022 to March 2023, April 2023 to March 2024, and the POI.
- xix. The submissions made by the interested parties during the course of this investigation, to the extent supported with evidence and considered relevant to the present investigation, have been appropriately considered in this final finding.
- xx. 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 confidentiality claims have been accepted wherever warranted and such information has been considered as confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.
- xxi. In accordance with Rule 7(6) of the Rules, the Authority also provided an opportunity to all interested parties to present their views orally in a hearing held on 08.05.2026. All the parties who attended and presented their views in the oral hearing were requested to file written submissions of the views expressed orally. The parties were also provided an opportunity to submit their rejoinders thereafter. The submissions made by the interested parties during the course of this investigation, wherever found relevant, have been addressed in this final finding.
- xxii. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, such parties have been considered as non-cooperative and the final finding has been recorded on the basis of the facts available.
- xxiii. The examination and verification of the information submitted by the cooperating producers/exporters from the subject countries were also carried out to the extent deemed necessary and the same has been relied upon for the purpose of the present final findings.
- xxiv. A disclosure statement containing the essential facts of the investigation which have formed the basis of the final findings was issued to the interested parties on 17th September 2026 and the interested parties were afforded an opportunity to furnish their comments thereon by 24.09.2026. Post-disclosure comments were received from the

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domestic industry and from the other interested parties, as recorded in Section Q below. The submissions made by the interested parties, arguments raised, and the comments to disclosure statement received from the interested parties have been considered, to the extent found relevant, non-repetitive and supported with evidence in this final finding notification.

xxv. “***” in this final finding represents information furnished by an interested party on a confidential basis and so considered by the Authority under the Rules.

xxvi. The Exchange rate adopted is US\$ 1 = ₹ 85.43. It is the simple average of the rates notified by the Central Board of Indirect Taxes and Customs under Section 14 of the Customs Act, 1962 for the conversion of the value of imported goods, taking the rates in force in each of the twelve months of the period of investigation (*Source: <https://foservices.icegate.gov.in/#/services/viewExchangeRate>*).

xxvii. **Currency of the exporting country to the United States dollar.** The amount of a subsidy is first measured in the currency in which the benefit arose and the denominator is expressed. Where a conversion into United States dollars was required for that purpose, the Authority has applied the rate used by the responding producer or exporter itself in its own questionnaire response for the period of investigation, that rate being drawn from the respondent’s own books and supporting records. The rate so applied in each case is recorded in the subsidy determination for that respondent.

C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

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

The product under consideration in the present investigation is “Clear Float Glass of nominal thicknesses ranging from 4 mm to 12 mm (both inclusive)”, the nominal thickness being as per BIS 14900:2000, originating in or exported from Indonesia and Malaysia.

C.1 Submissions made by the producers / exporters / importers / other interested parties

5. No submission has been made by the producers/exporters or by any other interested party with regard to the scope of the product under consideration and like article.

C.2 Views of the Domestic Industry

6. The submissions of the domestic industry with regard to the product under consideration and like article are as follows:

- i. The product under consideration is “Clear Float Glass of nominal thicknesses ranging from 4 mm to 12 mm (both inclusive)”, the nominal thickness being as per BIS 14900:2000 (as amended).

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- ii. Clear Float Glass is used in construction, refrigeration, mirror and solar energy industries. The product is a superior quality of glass. Due to its inherent strength, high optical clarity and distortion-free smooth surface, the applications of the product have been increasing for different purposes.
- iii. Float Glass is classified under Chapter Heading 70 “Glass and glassware”. The subject goods are also imported under tariff headings 7003, 7004, 7005, 7009, 7013, 7015, 7016, 7018, 7019 and 7020. The customs classification is indicative only and is in no way binding upon the product scope.
- iv. There is no known difference in the subject goods produced by the domestic industry and those imported from the subject countries. The two are comparable in terms of physical and chemical characteristics, manufacturing process and technology, functions and uses, product specifications, distribution and marketing, and tariff classification, and are technically and commercially substitutable. They should therefore be treated as “like article” under the Rules.

C.3 Examination by the Authority

7. The product under consideration for the purpose of the present investigation is “Clear Float Glass of nominal thicknesses ranging from 4 mm to 12 mm (both inclusive)”, the nominal thickness being as per BIS 14900:2000 (as amended).

8. Clear Float Glass is used in construction, refrigeration, mirror and solar energy industries and is classified under Chapter Heading 70 “Glass and glassware”. The classification at the 8-digit level is 70051090, even though the subject goods are also classified and imported under the sub-headings referred to above. The customs classification is indicative only and is in no way binding upon the product scope.

9. In order to give the scope precision and to guard against avoidance of the measure, the Authority considers it appropriate to record the following clarifications, which do not expand the product scope as notified at initiation:

- i. The subject goods are articles of soda-lime-silica glass manufactured by floating a continuous ribbon of molten glass over a bath of molten tin or other liquid metal of greater density than molten glass, annealing the glass in a lehr, and cutting it to dimension.
- ii. The country of origin of the subject goods is the country in which the soda-lime-silica glass is first manufactured by the float process and annealed, irrespective of the location of any subsequent downstream finishing or fabrication.
- iii. Cutting, edging, bevelling, drilling, polishing, grinding, washing and packing do not remove the goods from the scope, provided that the glass as first floated satisfied the description of the product under consideration.
- iv. The written description of the product under consideration, as clarified above, is dispositive.

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10. The expression “like article” is not defined in the Rules. The Authority has applied the meaning uniformly given to that expression in the determination of injury, namely an article which is identical or alike in all respects to the article under investigation or, in the absence of such an article, another article which although not alike in all respects has characteristics closely resembling those of the article under investigation.

11. It is noted that there is no known difference in the subject goods produced by the Indian industry and the product under consideration exported from the subject countries. The subject goods produced by the Indian industry and those imported from Indonesia and Malaysia are comparable in terms of physical characteristics, manufacturing process and technology, functions and uses, product specifications, pricing, distribution and marketing and tariff classification of the goods. The two are technically and commercially substitutable. The subject goods produced by the domestic industry are like article to the product under consideration imported from Indonesia and Malaysia within the scope and meaning of Rule 2(d) of the Rules.

12. No other argument has been made by any interested party on the product under consideration and like the article. It is therefore confirmed that the scope of the product under consideration in the present investigation remains the same as mentioned in the initiation notification, subject to the clarifications recorded above.

D. DOMESTIC INDUSTRY AND STANDING

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

13. The other interested parties have not made any submission with regard to the scope of the domestic industry and standing.

D.2 Submissions made on behalf of the Domestic Industry

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

- i. The present application has been filed by M/s Gold Plus Float Glass Pvt. Ltd., M/s Gold Plus Glass Industry Ltd., M/s Saint-Gobain India Pvt. Ltd. and M/s Sisecam Flat Glass India Ltd., who collectively command 85% share in Indian production of the subject goods during the period of investigation.
- ii. There are only two other known producers of the product under consideration in the country, namely M/s Asahi India Glass Ltd. and M/s Gujarat Guardian Ltd. Neither has supported nor opposed the present investigation.
- iii. The domestic industry has not imported the subject goods from the subject countries and is not related to any exporter of the subject goods in the subject countries or to any importer of the subject goods in India.

D.3 Examination by the Authority

15. **Rule 2(b)** of the 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

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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 which case the term 'domestic industry' may be construed as referring to the rest of the producers."

16. As per the available information, the present application has been filed by M/s Gold Plus Float Glass Pvt. Ltd., M/s Gold Plus Glass Industry Ltd., M/s Saint-Gobain India Pvt. Ltd. and M/s Sisecam Flat Glass India Ltd., who collectively command **85%** share in Indian production of the subject goods during the period of investigation, and who therefore account for a major proportion of Indian production. It is further noted that the Applicants have neither imported the subject goods from the subject countries nor are they related to any producer/exporter of the subject goods in Indonesia and Malaysia or to any importer in India.

17. In view of the above, and since none of the interested parties has made any submission in relation to the standing of the domestic industry, the Authority holds that the Applicants constitute the domestic industry within the meaning of Rule 2(b) of the Rules, and considers that the application satisfies the criteria of standing in terms of Rule 6(3) of the Rules.

E. CONFIDENTIALITY

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

18. The other interested parties have made the following submissions:

- i. That the responses filed by them are as per the Trade Notice, and that the non-confidential versions have been filed as per the practice of the Authority. The allegation of the domestic industry that they have not filed proper non-confidential versions is therefore incorrect.
- ii. That the domestic industry has withheld actual or even aggregated figures for several key injury parameters while disclosing only indexed trends. Such disclosure is insufficient to permit meaningful defence of the respondents' interests. Aggregate information relating to four domestic producers could have been disclosed without revealing business confidential information. The excessive confidentiality claimed is inconsistent with established practice, particularly when actual aggregate figures for similar parameters were disclosed in the recent anti-dumping sunset review concerning the same product.
- iii. That confidentiality cannot be granted as a matter of course and must be supported by good cause. The Authority should direct the domestic industry to provide complete and meaningful non-confidential versions of the information relied upon. In the absence of adequate disclosure, the confidential information should be disregarded in accordance with **Rule 8(3)** of the Rules.

E.2 Submissions made by the Domestic Industry

19. The submissions of the domestic industry with regard to confidentiality are as follows:

- i. That the responding exporters and Governments have claimed excessive confidentiality over both narrative and quantitative information in their questionnaire responses,

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resulting in non-confidential versions that do not permit a reasonable understanding of the information relied upon.

- ii. That the non-confidential versions fail to disclose essential information, including the names of subsidy programmes, their nature, operational framework and implementing authorities, whether such programmes were availed, the reasons for non-availment, and the supporting evidence, thereby preventing meaningful comment. While confidential numerical data may be indexed where justified, the existence and essential features of subsidy programmes cannot legitimately be treated as confidential.
- iii. That the composition of the domestic industry in the present investigation is materially different from that in the earlier anti-dumping sunset review concerning the same product. Disclosure of actual aggregate figures would have enabled interested parties, including competing domestic producers, to derive or accurately estimate the confidential business information of individual producers by comparing the figures disclosed in the present investigation with information available from previous proceedings and other public sources, causing serious commercial prejudice. The domestic industry has accordingly disclosed indexed trends and meaningful non-confidential summaries to the maximum extent possible, consistent with Rule 8 of the Rules and Trade Notice No. 10/2018.
- iv. That where adequate disclosure is not made, the Authority should draw appropriate adverse inferences and proceed on the basis of facts available in accordance with **Rule 7(8)** of the Rules and Article 12.7 of the SCM Agreement.

E.3 Examination by the Authority

20. With regard to confidentiality of information, **Rule 8** of the Rules provides for the treatment of information supplied on a confidential basis, requires a non-confidential summary in sufficient detail to permit a reasonable understanding of the substance of the confidential information, and permits the Authority to disregard such information where the request for confidentiality is not warranted or the supplier is unwilling to make the information public or to authorise its disclosure in a generalized or summary form.

21. The Authority notes that the composition of the domestic industry in the present investigation differs from that in the earlier anti-dumping sunset review concerning the same product. The Authority further notes the contention of the domestic industry that disclosure of actual aggregate figures could have enabled interested parties, including competing domestic producers, to derive the confidential business information of individual producers by comparing such figures with information available from previous proceedings and other public sources. The Authority considers that the domestic industry has provided indexed trends and non-confidential summaries to the extent feasible while safeguarding confidential business information in accordance with Rule 8 of the Rules and Trade Notice No. 10/2018. The Authority has examined the confidential information and is satisfied that the confidentiality claims are warranted to the extent accepted.

22. As regards the confidentiality claimed by the responding parties, the Authority accepts in principle the contention of the domestic industry that the existence, legal basis, administering authority and essential operating features of a subsidy programme are not susceptible of

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confidential treatment. The programme-wise examination in the relevant Section of these final findings has been framed accordingly, setting out for every programme examined the legal basis, the administering authority and the essential features, company-specific quantum alone having been treated as confidential where a claim was made and accepted.

23. 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. Business sensitive information has been kept confidential as per practice. The Authority notes that any information which is available in the public domain cannot be treated as confidential.

F. MISCELLANEOUS SUBMISSIONS AND COOPERATION

F.1 Submissions made on behalf of the Domestic Industry

24. The submissions of the domestic industry are as follows:

- i. That the responses of the participating exporters cannot be accepted as they have not provided complete information relating to their related and cross-owned entities in Malaysia. In the case of Kibing Group (M), the information of Malaysia Kibing Energy Saving Glass Co., Ltd and CS Eco Glass (M) Sdn. Bhd. has not been furnished; and in the case of Xinyi Energy Smart (Malaysia), the information of Xinyi Solar (Malaysia) Sdn. Bhd. and Xinyi Photovoltaic (Malaysia) Co., Ltd. has not been furnished. Unless the data of these entities is examined, the Authority would not be in a position to calculate the total subsidy benefit availed by the respective groups.
- ii. Jinjing Technology Malaysia Sdn. Bhd. has received an income tax exemption under a “5+5” year policy, as disclosed in the annual report of its related company, and the Authority should examine the extent and benefit received under such exemption along with the relevant approvals, tax filings and accounting records.
- iii. That the exporters have stated “not applicable” in respect of most schemes on the ground that they did not avail the specified programmes. However, where a company is eligible for a programme there is no reason to believe it would not have benefited under it, and the company should either show absence of eligibility or demonstrate why it has not availed the benefit available to it.
- iv. That the Government of Malaysia has not provided information relating to the companies under investigation as to which companies applied for, claimed, received or used the assistance stated, nor information about their related companies and the benefits availed by them, nor the information sought at the oral hearing regarding subsidy duties levied by other jurisdictions. Such non-submission vitiates the purpose of obtaining a response from the Government of the exporting country, and the Authority should apply facts available and draw appropriate adverse inferences in accordance with Rule 7(8) of the Rules and Article 12.7 of the SCM Agreement.
- v. That the Government of Indonesia has provided details only of subsidies provided to the participating exporter, has not provided any clarification relating to direct and indirect

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subsidies provided to other Indonesian producers, and has not provided information relating to PT Xinyi Glass Indonesia and PT KCC Glass Indonesia.

- vi. That the Governments of the subject countries and the responding exporters failed to provide complete programme-wise disclosures, supporting evidence and concordance tables correlating the subsidy programmes examined in other jurisdictions with those disclosed before the Authority.
- vii. That the evidentiary standard at the stage of initiation is limited to the information reasonably available to the applicant under Articles 11.2 and 11.3 of the SCM Agreement, and that the respondents' contention requiring exporter-specific evidence at the initiation stage is inconsistent with the legal framework governing anti-subsidy investigations.
- viii. That on-site verification of the participating exporters, including verification of the records of their related and cross-owned entities, should be undertaken in view of deficiencies and changes observed in exporter data in an earlier Malaysian sunset review.

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

25. The submissions of the other interested parties are as follows:

- i. That the application does not satisfy the prima facie evidentiary requirements under Articles 11.2 and 11.3 of the SCM Agreement, as several alleged programmes are based on generalised government information, secondary sources or speculative assumptions without sufficient evidence of financial contribution, benefit, specificity or actual use by the responding exporters. Reliance is placed on the WTO Panel Report in *China — GOES* (DS414).
- ii. That mere identification of numerous alleged subsidy programmes does not establish that an exporter actually availed such programmes or received a specific and countervailable benefit, and any determination should be based on verified company records rather than estimates provided by the domestic industry.
- iii. That each cooperating producer/exporter should receive an individual subsidy margin and injury margin on the basis of its own verified information, consistent with the established practice of the Authority.
- iv. That the newly raised subsidy programmes, including policy lending, provision of land and provision of electricity, could not be examined without following the requirements under **Rules 6 and 6A** of the Rules.
- v. That no subsidy, financing, land, electricity concession or other assistance under the identified programmes was received directly or indirectly through any related, cross-owned or affiliated entity.

F.3 Examination by the Authority

26. **On the evidentiary standard at initiation.** The Authority notes that the evidentiary standard at the stage of initiation is limited to the information reasonably available to the

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applicant under Articles 11.2 and 11.3 of the SCM Agreement. An applicant cannot be required to furnish exporter-specific evidence of utilisation before the investigation which alone can elicit such information. The Authority accordingly does not accept the contention that the present investigation was initiated without sufficient evidence.

27. **On individual margins.** The Authority accepts the contention that a cooperating producer/exporter is entitled to an individual subsidy margin determined on the basis of its own verified information rather than on estimates contained in the application. Individual subsidy margins have accordingly been determined for Xinyi Energy Smart (Malaysia), Kibing Group (M) and Jinjing Technology Malaysia.

28. **On eligibility and receipt.** The Authority accepts that where a respondent is eligible under a programme, a presumption arises that the programme was available to be availed, and that the party asserting non-availment carries the burden of displacing it. The presumption is, however, one of availability and not of receipt, and it is rebuttable upon the documentary record. Where the Government of the exporting country and the respondent have both stated that a programme was not availed, and the tax returns, tax assessments, customs entries and audited accounts of the respondent have been examined and disclose no corresponding claim or credit, the presumption stands displaced and the Authority is satisfied that no benefit was received during the period of investigation. The Authority records that this conclusion rests in each case upon the respondent's own tax and customs records examined against its audited accounts, and not upon its assertion or upon the statement of its Government alone; that where the records did not bear out the assertion the Authority has said so and has countervailed the programme; and that the conclusion is confined to the respondent whose records were examined, the position of producers and exporters which did not participate being dealt with separately under the head of residual subsidy margins.

29. **On the examination of programmes identified during the investigation.** The Authority does not accept the objection that programmes identified in the course of the investigation cannot be examined. An investigating authority is not confined to the programmes identified in the application. Where information coming to light in the course of the investigation discloses a further programme, the Authority may examine it, provided the affected parties are given notice of the allegation, of the essential facts relied upon, and an adequate opportunity to defend their interests. That condition has been satisfied: the Authority put the allegations to each participating exporter in specific terms following desk verification; each responded substantively, furnishing agreements, invoices, approvals and calculations; and the essential facts, including the basis of determination, were disclosed to all interested parties in the Disclosure Statement dated 17.09.2026, and the parties were afforded an opportunity to comment thereon. The income-tax exemption dealt with as Programme 7 was raised by the domestic industry in the course of the investigation, and has been examined upon the audited financial statements and income-tax computation filed by the respondent itself with its questionnaire response.

30. **On the reliability of the response of the Government of Malaysia.** The Authority notes that the Government of Malaysia stated, in respect of a number of programmes, that none of the responding producers/exporters received any benefit during the POI, and that this statement is contradicted by the responding exporters themselves in respect of the Investment Tax Allowance, the Accelerated Capital Allowance, the Industrial Building Allowance, the

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Allowance for Plant and Machinery, the Sales Tax Exemption and the Buyer Credit Guarantee. The Authority further notes that the Reinvestment Allowance is not among the programmes disclosed by the Government of Malaysia or alleged in the application, yet was availed by a responding exporter and came to light only upon the desk verification.

31. **Determination on facts available.** Rule 7(8) of the Rules provides that where an interested party refuses access to, or otherwise does not provide necessary information within a reasonable period, or significantly impedes the investigation, the Authority may record its findings on the basis of facts available to it. The Authority determines as follows. The statement of the Government of Malaysia that no responding producer/exporter received benefit under the programmes named above is not accepted, being contradicted by the responding exporters themselves, and the Authority has proceeded upon the information furnished and verified in the responses of those exporters. No adverse inference is drawn against the responding producers/exporters, whose responses were filed in full, were verified against their supporting records and were supplemented upon every query raised. In respect of the Reinvestment Allowance, which was disclosed neither by the Government nor in the application, the Authority has proceeded upon the amount reported and evidenced by the exporter which availed it. In respect of producers and exporters which did not participate, the subsidy margin has been determined upon facts available in the manner set out in relevant Section under the head of residual subsidy margins.

32. **On related and cross-owned entities.** At the stage of desk verification the Authority noted that the responding exporters had not furnished complete particulars of their related, affiliated and cross-owned entities in Malaysia and of their transactions with them. This was recorded in the Disclosure Statement, and each exporter was put on notice to furnish such particulars with its comments, failing which the Authority might proceed on the facts available under Rule 7(8) of the Rules. The Authority has since examined, exporter by exporter, the post-disclosure submissions together with the audited financial statements and income-tax returns on the record. Facts available have been applied to the specific items of necessary information not furnished, or contradicted by the exporter's own records; information furnished and verified has not been disregarded. The determination in respect of each exporter is recorded in Section Q.

33. **On the request for on-site verification.** The domestic industry has requested that the responses of the participating producers/exporters and of the Governments be verified on site. The Authority notes that the purpose of verification is to satisfy the Authority of the accuracy of the information furnished. In the present investigation the Authority has carried out desk verification of every response, examining each response against the audited financial statements, tax returns and assessments, customs entries, utility invoices, land agreements, approval letters and subsidy calculation sheets furnished in support, and has sought and obtained further clarifications and additional documents where the material furnished was incomplete or inconsistent. The Authority is satisfied that the information relied upon has been verified to the extent necessary for the purposes of this determination, and the request for on-site verification is accordingly not acceded to.

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ASSESSMENT OF SUBSIDY — METHODOLOGY, PARAMETERS, COUNTERAVAILABILITY AND SUBSIDY MARGINS

G. METHODOLOGY

34. **Section 9 of the Customs Tariff Act, 1975** read with the Rules governs the determination of a countervailable subsidy. A subsidy is said to exist where there is a financial contribution by a government or public body, or income or price support, which confers a benefit upon the recipient, and the subsidy is specific within the meaning of Article 2 of the SCM Agreement.

35. **Article 14 of the SCM Agreement** provides guidelines and methodology for calculating the benefit to the recipient and requires that any method used by the investigating authority be provided for in national legislation or implementing regulations and that its application in each particular case be transparent and adequately explained. In accordance with that requirement, the Rules lay down the methodology for determining the quantum of subsidisation, and the determination in this investigation is in accordance with those guidelines.

36. The Authority has examined each programme against the following elements in sequence: (i) the legal basis and administering authority; (ii) whether a financial contribution by a government or public body is established; (iii) whether the programme is specific; (iv) whether a benefit is conferred, and the basis on which the benefit has been measured; and (v) the ad valorem subsidy rate. Where any of the first three elements is not established, no rate has been determined.

37. **Annexures to the Rules.** The Authority has determined the amount of the countervailable subsidy in accordance with **Annexure IV to the Rules**, which sets out the guidelines for the calculation of the amount of subsidy, and has examined whether each programme is a subsidy conferred on a limited number of persons in accordance with **Annexure II to the Rules** read with Article 2 of the SCM Agreement. Injury has been determined in accordance with Rule 13 of the Rules read with Annexure I to the Rules.

38. **Recurring and non-recurring benefits.** A benefit conferred and consumed within the year in which it arises has been treated as recurring and expensed to that year. A benefit conferred once but enjoyed over the life of the asset which it finances has been treated as non-recurring and allocated over the average useful life of 15 years of the renewable physical assets used in the production of the subject goods, only the portion attributable to the period of investigation having been countervailed. The Authority has applied that treatment to the provision of land and to the exemptions from sales tax on equipment and from import duty on machinery. In respect of every other programme the Authority has examined the records of the respondent concerned and has determined upon that examination whether the benefit is recurring or non-recurring, the classification so determined being recorded at the programme concerned. The provision of natural gas and electricity, the exemption of import duty and sales tax on raw materials and consumables, and income-tax allowances claimed in the year of assessment falling within the period of investigation have been treated as recurring.

39. **Denominator.** A subsidy which is not tied to a particular product has been allocated over the total sales of the recipient; a subsidy tied to a particular product or facility has been allocated over the sales of that product or facility.

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40. **Computation of the ad valorem subsidy rate.** For every programme the rate has been computed as a fraction. The numerator is the amount of the benefit attributable to the period of investigation. The denominator is the turnover described in the preceding paragraph. The rate is the numerator expressed as a percentage of the denominator.

41. The numerator is arrived at as follows. Where the benefit is recurring, the whole of the benefit arising in the period of investigation is taken. Where the benefit is non-recurring, the benefit is first computed in full and then divided by the average useful life of fifteen years, so that only one-fifteenth of it is taken into the period of investigation; the Authority has applied that treatment to the provision of land and to the exemptions from sales tax on equipment and from import duty on machinery. In respect of the remaining programmes the Authority has determined the amount attributable to the period of investigation upon the verified records of the respondent concerned, and the treatment adopted is recorded at the programme concerned. Where the benefit arises in a currency other than that of the denominator, it is converted into the currency of the denominator at the rate used by the respondent in its own questionnaire response, so that numerator and denominator stand in the same currency; no rate of the Authority's own has been substituted for a rate the respondent has evidenced.

42. The numerator and the denominator for each programme are particulars of the sales, costs and tax affairs of the respondent concerned and have been claimed by it as confidential under Rule 8 of the Rules. They are accordingly shown in these final findings as “****”. The basis of the computation, the benchmark where one is used, the treatment of the benefit as recurring or non-recurring, the denominator adopted and the resulting ad valorem rate are set out in each case, so that each respondent is able to verify the computation against its own figures and every other interested party is able to test the method.

43. The basis upon which the rates in these final findings have been determined is as follows. The Authority has itself determined the rate in respect of two programmes, being the provision of land for less than adequate remuneration and the provision of natural gas for less than adequate remuneration, the benchmark in each case being that adopted by the Authority for the reasons recorded programme-wise below. In respect of every other programme the Authority has examined the quantification furnished by the respondent in its subsidy calculation annexure against the audited financial statements, tax returns and assessments, customs entries, utility invoices and other supporting records of that respondent, and has satisfied itself as to the amounts so quantified. Where the Authority is so satisfied, the amount verified has been taken as the measure of the benefit, being the verified quantification of the revenue foregone or of the advantage conferred, and the Authority has determined the rate accordingly. Where upon examination the Authority has found the basis of a quantification to depart from that described above, it has recorded the departure at the programme concerned. The basis so adopted, and each departure so recorded, was set out in the Disclosure Statement, and the post-disclosure comments of the interested parties thereon have been considered at the programme concerned and in Section Q below.

44. **Benchmarks.** Where a programme consists of the provision of goods by a government, the benefit is the difference between the price paid and an appropriate benchmark. **Article 14(d)** of the SCM Agreement establishes a preference for prevailing market conditions in the country of provision. Where, however, the government is the predominant provider and the price is administered by or on behalf of the government, in-country prices do not reflect market

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conditions and cannot serve as a benchmark, and an out-of-country benchmark is required. The benchmark adopted, and the reasons for its adoption, are recorded programme-wise below.

45. **De minimis.** A subsidy margin below 1% ad valorem is de minimis in terms of Article 11.9 of the SCM Agreement, the corresponding threshold for a developing country Member being 2% ad valorem in terms of **Article 27.10**.

46. In view of the termination, recorded in Section B above, of the investigation in respect of Indonesia upon the ground of negligible import volumes, no examination of the existence of subsidisation in Indonesia has been carried out and no subsidy margin has been determined in respect of that country. The examination in this Section is accordingly confined to Malaysia. The Authority has examined the countervailability of all thirty-two programmes alleged in respect of Malaysia, together with the further programmes disclosed by the responding exporters and identified by the Authority during and following desk verification. The programmes are dealt with under three heads: programmes determined to be countervailable and availed during the period of investigation; programmes determined not to be countervailable; and programmes determined not to have been used during the period of investigation.

H. MALAYSIA

H.1 Programmes determined to be countervailable and availed during the POI

Programme 1: Provision of Land for Less Than Adequate Remuneration

47. **Origin of the allegation.** This programme was not alleged in the application and was not disclosed by the Government of Malaysia. It was identified by the Authority in the course of desk verification, upon which information was sought from the participating exporters as to the mode of acquisition of land, the consideration paid, the applicable benchmark or guideline value, and the terms of acquisition.

48. **Submissions by the exporters.** Jinjing Technology Malaysia submitted that it acquired the lease of the land from its Chinese affiliate, which had initially obtained the lease from Kulim Technology Park Corporation, a government-owned entity, under an agreement dated 27.12.2017; that no guideline value was available; and that there were no other industrial users in the park for comparison. Kibing Group (M) submitted that it purchased land from Samsung Malaysia, a private entity, and from Seriemas Development Sdn. Bhd., a government-related party; that the purchases were made through arm's-length negotiations and at fair market value; and that the Malaysian taxation authority had confirmed the relevant transfer price as market price. Xinyi Energy Smart (Malaysia) submitted that the relevant land parcels were purchased directly from Perbadanan Kemajuan Negeri Melaka through private sales; that it could not locate the applicable guideline value; and that it could not confirm whether similar price and payment terms were available to other industrial users.

49. **Examination by the Authority — financial contribution.** The provision of land constitutes a financial contribution only where the land is provided by a government or a public body. The Authority has examined the position in respect of each parcel:

- i. In the case of **Xinyi Energy Smart (Malaysia)**, the parcels were acquired from a State Development Corporation, which is a public body, and the element is satisfied.

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- ii. In the case of **Kibing Group (M)**, one parcel was acquired from a government-linked entity and one from a party which the respondent describes as a private entity. A purchase from a private vendor does not constitute a financial contribution by the Government of Malaysia at any price. The Authority has accordingly excluded that parcel from consideration and has examined only the parcel acquired from the government-linked entity.
- iii. In the case of **Jinjing Technology Malaysia**, the leasehold interest was originally allotted by a government-owned corporation and passed to the respondent from a cross-owned affiliate. The Authority determines that the interposition of a cross-owned affiliate does not defeat the finding. The land is land in the subject country, allotted by a body of that country, in respect of the very site on which the subject goods are produced, and it has at all times since allotment been dedicated to that production. To hold otherwise would permit the benefit of a government allotment to be insulated from countervailing measures by the routing of title through an affiliate.

50. The Authority records that this determination is to be distinguished from its determination on policy lending recorded below. In the case of policy lending, the loans were extended by lenders outside the subject country to entities outside the subject country, in respect of no asset situated in the subject country, and the subsequent movement of funds between affiliates did not convert them into a financial contribution by the Government of Malaysia. In the present case the financial contribution was made by a body of the subject country in respect of the site of production situated in that country.

51. **Examination by the Authority — specificity.** Land in a designated industrial park is not available generally. It is allotted only to enterprises admitted to that park, upon application and approval. The programme is accordingly specific within the meaning of Article 2.2 of the SCM Agreement, being limited to enterprises located within a designated geographical region, and in the alternative under Article 2.1(a), being limited to enterprises approved for admission.

52. **Examination by the Authority — benefit.** No guideline value was furnished by any respondent, and no respondent has contended that a contemporaneous transaction is available for comparison. The Authority has relied upon the Malaysia Industrial Park Directory published by the Federation of Malaysian Manufacturers in collaboration with the Malaysian Investment Development Authority and relevant stakeholders, which provides information on industrial parks including the developer, tenure, selling prices and infrastructure available. The Directory was prepared as an investor-oriented reference for assessing and identifying suitable industrial locations, is independently published and publicly available, and was prepared with the participation of the national investment authority. The Authority accordingly considers the selling prices reported therein to be relevant and objective publicly available information regarding prevailing industrial land prices in Malaysia, and an appropriate and reliable basis for determining the applicable benchmark.

53. The Authority does not accept the contention that a privately negotiated transaction, or the absence of a guideline value, establishes that the consideration paid represents prevailing market value. A negotiated price between a state corporation and an applicant enterprise is not, without more, a market price; the question under Article 14(d) is whether the remuneration was adequate by reference to prevailing market conditions, and not whether the parties negotiated.

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The Authority has therefore compared the consideration actually paid or contracted with the applicable benchmark rate for the industrial park concerned.

54. The Authority further notes that, in the case of Xinyi Energy Smart (Malaysia), the information furnished by the respondent itself records that certain of the parcels acquired are not used for the production of the subject merchandise. A benefit conferred in respect of land which does not support production of the subject goods is not attributable to the subject goods, and those parcels have accordingly been excluded.

55. The acquisition of land is a one-time benefit conferred in respect of an asset used over a number of years and has accordingly been treated as non-recurring and allocated over the average useful life in accordance with the allocation rule set out in the methodology above, only the portion attributable to the period of investigation having been countervailed.

56. **Computation of the benefit.** The benefit has been computed parcel by parcel. For each qualifying parcel the Authority has taken the area in square feet and multiplied it by the benchmark rate per square foot for the industrial park in which that parcel stands, so arriving at the benchmark value of the parcel; from that value it has deducted the consideration actually paid or contracted by the respondent. The benchmark rate applied is **RM 35 per square foot** in the case of each of the three parks concerned, being the rate reported for that park in the Malaysia Industrial Park Directory; where the Directory reports a range for a park, the lower end of the range has been taken.

57. The numerator is the aggregate of the amounts so computed for the qualifying parcels of the respondent, divided by fifteen, being the average useful life adopted in the methodology above. In the case of the leasehold interest held by Jinjing Technology Malaysia the Authority has allocated the benefit over the average useful life of fifteen years and not over the sixty-year term of the lease, the allocation period under Annexure IV being referable to the useful life of the asset employed in production and not to the duration of the title by which it is held. The denominator is the total turnover of the respondent in the period of investigation, expressed in ringgit. Parcels not used for the production of the subject goods, and the parcel acquired from a private vendor, have been excluded from the numerator for the reasons already recorded, while the denominator remains the whole turnover of the respondent, the benefit not being tied to any particular product.

58. Based upon the verified information available on record, the Authority determines that land was made available to the concerned exporters for less than adequate remuneration, resulting in a benefit to the recipients, that the programme is specific, and that the subsidy margins determined under this programme are as follows:

Producer / Exporter	Subsidy margin	Range (%)
Xinyi Energy Smart (Malaysia) Sdn. Bhd.	***	0–10
Kibing Group (M) Sdn. Bhd.	***	0–10
Jinjing Technology Malaysia Sdn. Bhd.	***	0–10

NON-CONFIDENTIAL**Programme 2: Provision of Natural Gas for Less Than Adequate Remuneration**

59. **Views of the Domestic Industry.** The Government of Malaysia regulates domestic natural gas prices through Government-controlled entities and provides natural gas to industrial consumers, including float glass manufacturers, at prices below prevailing market prices. The regulated pricing framework enables eligible industrial users to procure natural gas at prices lower than international market benchmarks, thereby reducing production costs. The Government, through its pricing policy and regulatory framework, provides natural gas for less than adequate remuneration within the meaning of Article 14(d) of the SCM Agreement and Section 9 of the Act. The gas prices reported by the exporters should not be accepted in the absence of reliable and complete information from the Government of Malaysia, mere submission of invoice prices not establishing that such prices are representative of undistorted market prices, and appropriately adjusted Indonesian natural gas prices should be considered as an external benchmark, Indonesia being a geographically proximate and economically comparable regional benchmark.

60. **Submissions by the Government and other interested parties.** The Government of Malaysia and the responding producers/exporters submitted that domestic natural gas prices are determined under the applicable statutory and regulatory framework and are not established for the benefit of any particular enterprise or industry. The responding producers/exporters purchased natural gas at the applicable regulated industrial tariff and did not receive any preferential pricing or additional concession unavailable to other similarly situated industrial consumers. Copies of gas purchase agreements, invoices and payment records were furnished. The respondents disputed the benchmark proposed by the domestic industry and submitted that international LNG prices or export prices are not appropriate benchmarks for determining adequacy of remuneration under Article 14(d).

61. **Examination by the Authority — financial contribution.** Domestic piped natural gas is supplied under a regulated framework in which a wholly State-owned corporation is the sole aggregator of domestic supply and in which the price payable is fixed under a mechanism administered by or on behalf of the Government. The supply of natural gas on those terms constitutes the **provision of goods by the Government or by a public body** within Article 1.1(a)(1)(iii) of the SCM Agreement and Section 9 of the Act. The Government of Malaysia has not disputed the regulated character of the framework.

62. **Examination by the Authority — specificity.** The Government of Malaysia has submitted that domestic natural gas prices are determined under the applicable statutory and regulatory framework and are not established for the benefit of any particular enterprise or industry. The question is not whether the framework names the float glass industry. It is whether the regulated price is available to enterprises generally, or only to some. The Authority has examined the framework on that question and finds the availability limited in two distinct ways.

63. **First, limited by connection and by category.** The regulated price is not available to any enterprise that wishes to buy gas. It is available only to an enterprise connected to the piped distribution network, and only in the area to which the framework extends; and within that network it is available only to an enterprise falling within one of the consumer categories designated under the applicable instruments, on terms fixed by or on behalf of the Government. An enterprise outside the network, or outside a designated category, cannot obtain gas at that

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price at all. A measure so confined is limited to certain enterprises within the meaning of Article 2.1(a) of the SCM Agreement read with Annexure II to the Rules, and is in the alternative limited to enterprises located within a designated geographical region within the meaning of Article 2.2.

64. **Secondly, limited in fact by the nature of the benefit.** Even upon the assumption that the regulated price is nominally open to a wide class, the advantage it confers is not evenly spread. The benefit of a price concession on gas accrues in proportion to the gas consumed. The manufacture of float glass requires a furnace held continuously at temperature and is among the most gas-intensive of industrial activities, and the responding producers/exporters are consumers of gas in very substantial quantities. A concession of this character is therefore used by, and is predominantly used by, a limited number of enterprises within the meaning of Article 2.1(c), whatever the terms of the instrument may say.

65. **The Authority accordingly determines that the programme is specific.** The Authority records that the first ground rests upon the terms of the framework and the second upon its effect in fact, and that either ground is sufficient.

66. **Examination by the Authority — benefit.** The Authority has considered whether the domestic reference price determined under the Malaysian regulatory framework may serve as the benchmark, and has concluded that it may not. That reference price is not a market price. It is the administered price fixed under the very framework which is alleged to confer the subsidy, in a market in which a wholly State-owned corporation is the sole aggregator of domestic supply. Where the government is the predominant provider and itself fixes the price, the in-country price is determined by the government's own role in the market and cannot serve as a measure of the adequacy of the remuneration which the government receives; to adopt it would be to test the measure against itself.

67. Having concluded that no usable in-country benchmark exists, the Authority has adopted an **out-of-country benchmark**, being the price at which natural gas was available on commercial terms in Indonesia outside the administered framework, that being the nearest regional market for which prices outside an administered framework are available in the period of investigation. The adoption of a regional benchmark of this description was proposed by the domestic industry, and Indonesia is geographically proximate and economically comparable to the subject country.

68. The benchmark series applied follows the price which was in fact available in each month, the Authority having taken in each month the non-administered price at which gas could then be obtained, and not a single annual average. Specifically, for April 2024, the benchmark price taken was US\$ 11.89 per MMBtu, corresponding to the non-administered pipeline price for the lowest published consumer category. For the period from May 2024 to December 2024, the benchmark price was US\$ 13.00 per MMBtu based on the regasified liquefied natural gas price. Finally, for the period from January 2025 to March 2025, the benchmark price was US\$ 16.77 per MMBtu, reflecting the regasified liquefied natural gas price for that quarter.

69. Regasified LNG pricing was introduced by the supplier only in May 2024, and for April 2024 the pipeline price has accordingly been taken. That price is published by consumer category; the category applicable to each respondent is not on the record, and the Authority has taken the lowest published category, being the level least adverse to the respondents. The price of

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US\$ 9.16 per MMBtu appearing on the record has not been adopted, having been superseded on 01.10.2023, six months before the period of investigation began.

70. The Authority has examined the applicable regulatory framework, the gas supply agreements, the invoices and payment records, the competing submissions on the appropriate benchmark, and the benefit calculations placed on record.

71. **Computation of the benefit.** For each of the twelve months of the period of investigation the Authority has taken the quantity of natural gas purchased by the respondent in MMBtu and the price in fact paid by it per MMBtu, as appearing from its own invoices, and has multiplied the quantity by the amount, if any, by which the benchmark for that month exceeds the price paid. Where the benchmark for a month did not exceed the price paid, no benefit has been taken for that month. The numerator is the sum of the twelve monthly amounts so computed, converted into ringgit at the rate used by the respondent in its own response. The denominator is the total turnover of the respondent in the period of investigation in ringgit, the benefit not being tied to any particular product. The benefit is recurring and the whole of it has been taken into the period of investigation. Quantities invoiced in other units have been converted to MMBtu at the conversion factor used by the respondent itself.

72. Based upon the verified information available on record, the Authority determines that natural gas was provided for less than adequate remuneration, that the programme constitutes a financial contribution which confers a countervailable benefit, and that the subsidy margins determined under this programme are as follows:

Producer / Exporter	Subsidy margin	Range (%)
Xinyi Energy Smart (Malaysia) Sdn. Bhd.	***	0–10
Kibing Group (M) Sdn. Bhd.	***	0–10
Jinjing Technology Malaysia Sdn. Bhd.	***	0–10

Programme 3: Investment Tax Allowance and Reinvestment Allowance

73. **Views of the Domestic Industry.** The Government of Malaysia grants Investment Tax Allowance to qualifying manufacturing enterprises undertaking approved investments, permitting deduction of a prescribed percentage of qualifying capital expenditure against statutory income and thereby reducing the income tax liability of eligible enterprises. The programme constitutes government revenue foregone and confers a measurable financial benefit.

74. **Submissions by the Government and other interested parties.** The Government of Malaysia submitted the relevant provisions governing the Investment Tax Allowance under the Promotion of Investments Act, 1986, and stated that none of the responding producers/exporters received Investment Tax Allowance benefits in relation to the subject goods during the period of investigation. Kibing Group (M) submitted that it had claimed benefit under this scheme. Xinyi Energy Smart (Malaysia) submitted that it had claimed an ITA-equivalent income-tax exemption and a Reinvestment Allowance during 2024 and furnished the relevant tax and approval

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documents. Jinjing Technology Malaysia submitted that it did not benefit from Investment Tax Allowance or investment-linked deductions during the period of investigation.

75. **Examination by the Authority.** An allowance or exemption which reduces the tax otherwise chargeable constitutes government revenue otherwise due which is foregone within Article 1.1(a)(1)(ii) of the SCM Agreement and Section 9 of the Act. The Investment Tax Allowance is not generally available: it is granted under the Promotion of Investments Act only in respect of approved promoted activities and promoted products, upon application to and approval by the Malaysian Investment Development Authority. A benefit confined to activities and products designated by the Government, and granted upon approval, is specific within the meaning of Article 2.1(a) and Article 2.1(c) of the SCM Agreement. The Reinvestment Allowance is confined to companies engaged in manufacturing which reinvest in qualifying projects and is accordingly limited to a group of industries within Article 2.1(a). The Authority notes that the submission of the Government of Malaysia that no benefit was received under these programmes is not correct, two of the participating exporters having accepted receipt of benefit thereunder, and one of them having disclosed a programme which the Government did not disclose at all. The Authority further notes that Jinjing Technology Malaysia held an income-tax exemption under the Northern Corridor Economic Region, which is examined as Programme 7.

76. The benefit conferred is the amount of tax which would have been payable but for the allowance or exemption. In the case of Xinyi Energy Smart (Malaysia), the Authority has adopted the tax reductions reported by the respondent and supported by its tax returns and approval documents, those being the verified measure of the revenue actually foregone.

77. **Computation of the benefit.** An income-tax allowance operates by reducing the income on which tax is charged. The benefit is accordingly the tax which the respondent would have paid but for the allowance. The Authority has examined, in the case of each respondent, the allowance claimed and admitted in the year of assessment falling within the period of investigation, as appearing from its tax returns, assessments and approval documents. In the case of Xinyi Energy Smart (Malaysia) the Authority has satisfied itself that the amount so appearing is the allowance absorbed multiplied by the rate of corporate income tax applicable to that respondent, and has taken that amount as the benefit. In the case of Kibing Group (M) the Authority finds that the amount so appearing is the allowance itself and not the tax foregone thereon; this finding was expressly recorded in the Disclosure Statement. Having considered the post-disclosure comments of that respondent, the Authority has recomputed the benefit as the allowance absorbed multiplied by the rate of corporate income tax of 24 per cent applicable to that respondent, and has taken that amount as the benefit. The numerator in each case is the amount so determined. The denominator is the total turnover of the respondent in the period of investigation, the allowance not being tied to any particular product. The benefit is recurring, being conferred and consumed in the year of assessment in which the allowance is claimed, and the whole of it has been taken into the period of investigation; no part of it has been allocated over any longer period. Where an allowance was carried forward and not set off in that year, no benefit has been taken, there being in that event no tax foregone in the period of investigation.

78. Based upon the verified information available on record, the Authority determines that these programmes constitute a financial contribution which is specific and which confers a countervailable benefit, and that the subsidy margins determined thereunder are as follows:

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Producer / Exporter	Programme	Subsidy margin	Range (%)
Kibing Group (M) Sdn. Bhd.	Investment Tax Allowance	***	0–10
Xinyi Energy Smart (Malaysia) Sdn. Bhd.	Investment Tax Allowance and Reinvestment Allowance	***	0–10

Programme 4: Industrial Building Allowance and Accelerated Capital Allowance

79. **Views of the Domestic Industry.** The Government of Malaysia grants Industrial Building Allowance under Schedule 3 of the Income Tax Act 1967 in respect of qualifying industrial buildings, and Accelerated Capital Allowance permitting accelerated depreciation of qualifying capital assets. Both reduce taxable income and constitute government revenue foregone.

80. **Submissions by the Government and other interested parties.** The Government of Malaysia submitted the applicable statutory provisions and stated that none of the responding producers/exporters received benefits under either programme in relation to the subject goods during the period of investigation. Kibing Group (M) submitted that it had received benefit under the Industrial Building Allowance. Xinyi Energy Smart (Malaysia) and Jinjing Technology Malaysia submitted that they had claimed benefit under the Accelerated Capital Allowance.

81. **Examination by the Authority.** Both allowances reduce the tax otherwise chargeable and constitute revenue foregone within Article 1.1(a)(1)(ii) of the SCM Agreement. As regards specificity, the Authority notes that neither allowance is available to every taxpayer upon incurring expenditure of any description. The **Industrial Building Allowance** is available only in respect of expenditure upon buildings of a description qualifying under the Schedule, that is to say buildings used for purposes of manufacture and like activities, and is therefore confined to enterprises engaged in those activities. The **Accelerated Capital Allowance** is not part of the general capital allowance regime but is conferred by rules made from time to time in respect of designated categories of assets and designated activities, and is available only to enterprises which acquire assets of those categories or carry on those activities. Each allowance is accordingly **limited to certain enterprises within the meaning of Article 2.1(a)** of the SCM Agreement read with Annexure II to the Rules. **The Authority determines that both programmes are specific.** The Authority has examined the questionnaire responses, tax records and verification findings placed on record.

82. **Computation of the benefit.** Each of these allowances operates by permitting a deduction in respect of qualifying capital expenditure at a rate higher, or at a time earlier, than the depreciation otherwise allowable. The benefit is the tax deferred or foregone by reason of the accelerated or additional deduction, and the Authority has examined the allowance claimed and admitted by each respondent against its tax returns and assessments. In the case of Jinjing Technology Malaysia the Authority has satisfied itself that the amount so appearing is the allowance multiplied by the rate of corporate income tax applicable to that respondent, and has taken that amount as the benefit. In the case of Kibing Group (M) the Authority finds that the amount so appearing is the allowance itself; the benefit has accordingly been recomputed as the allowance multiplied by the rate of corporate income tax of 24 per cent applicable to that

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respondent, for the reasons stated in relation to the preceding programme. The numerator is the amount so determined and the denominator is the total turnover of the respondent in the period of investigation. The benefit has been treated as arising in, and confined to, the year of assessment in which the allowance was claimed, the deduction being taken in that year; it has accordingly not been allocated over the average useful life of the asset to which the expenditure relates, and only the amount attributable to the period of investigation has been countervailed.

83. Based upon the verified information available on record, the Authority determines that these programmes confer a countervailable benefit, and that the subsidy margins determined thereunder are as follows:

Producer / Exporter	Programme	Subsidy margin	Range (%)
Kibing Group (M) Sdn. Bhd.	Industrial Building Allowance	***	0–10
Kibing Group (M) Sdn. Bhd.	Accelerated Capital Allowance	***	0–10
Jinjing Technology Malaysia Sdn. Bhd.	Accelerated Capital Allowance	***	0–10

Programme 5: Sales Tax Exemption on Imported Raw Materials and Equipment

84. **Views of the Domestic Industry.** The Government of Malaysia exempts eligible manufacturers from payment of sales tax on specified goods, raw materials, components and packaging materials. Such exemptions constitute government revenue foregone, reduce the production costs of eligible enterprises and confer a measurable financial benefit.

85. **Submissions by the Government and other interested parties.** The Government of Malaysia submitted that the programme is governed by the Sales Tax (Persons Exempted from Payment of Tax) Order 2018. Kibing Group (M) submitted that it availed the Schedule C sales tax exemption as a registered manufacturer, the exemption applying to raw materials, components and packaging used in manufacturing activities. Jinjing Technology Malaysia and Xinyi Energy Smart (Malaysia) submitted that they operate under the Licensed Manufacturing Warehouse framework and, in respect of sales tax, relied upon a determination of the U.S. Department of Commerce to the effect that the benefit of a sales tax exemption accrues to the purchaser rather than to the seller.

86. **Examination by the Authority.** Exemption from a tax otherwise payable constitutes revenue foregone within Article 1.1(a)(1)(ii) of the SCM Agreement.

87. As regards the reliance placed upon the determination of the U.S. Department of Commerce, that determination is on record and has been examined. It contains two distinct holdings: first, that in respect of the exemption applicable to the **finished product** the benefit accrues to the purchaser and not to the seller, the producer's role being limited to remitting a tax borne by the buyer; and secondly, that in respect of the exemption applicable to **input materials** the programme was not specific on the record then before that authority. The Authority is not bound by the determination of the investigating authority of another Member and considers it distinguishable in the present case for the following reasons:

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- i. The first holding has no application to the programme in issue. It concerns tax upon the producer's **output sales**. The exemption examined here is an exemption upon the respondent's **inputs and equipment**, in respect of which the respondent is itself the purchaser and therefore, upon the reasoning of that determination, the party upon which the benefit falls.
- ii. That determination was made under the sales tax legislation then in force in Malaysia. The regime presently in issue was introduced with effect from 01.09.2018 under the Sales Tax Act 2018, and the instrument in issue is Schedule C of the Order made thereunder, which operates by application to and approval by the Royal Malaysian Customs Department of a registered manufacturer in respect of an approved list of goods. The respondent has itself described the exemption as availed "as a registered manufacturer". A finding of non-specificity made upon the earlier legislation does not determine the character of the instrument now in issue.
- iii. That determination concerned a different product, a different period of investigation and different respondents, and the finding of non-specificity rested expressly upon the information which that authority was able to collect and verify upon the record of that case.

88. As regards specificity, the Authority determines, for the reasons recorded above in relation to the sales tax exemption on raw materials, that the exemption is not available as of right to all persons but is granted upon application, registration and approval of a specified manufacturer in respect of an approved list of goods, and is accordingly specific within the meaning of Article 2.1(a) and Article 2.1(c) of the SCM Agreement.

89. **Computation of the benefit.** The exemption operates upon goods brought in during the period of investigation, and the benefit is the sales tax which would have been payable upon those goods but for the exemption. The Authority has taken the value of the goods covered by the exemption certificates and entered during the period of investigation, as appearing from the respondent's own customs entries and purchase records, and has applied to that value the rate of sales tax which would otherwise have been chargeable. The numerator is the amount so computed. The denominator is the total turnover of the respondent in the period of investigation. In the case of raw materials, consumables and packing materials the benefit is recurring, the goods being consumed in the year, and the whole of the amount has been taken into the period of investigation. In the case of equipment, the goods being capital assets employed in production over a number of years, the benefit is non-recurring and, after considering the post-disclosure comments of the respondent, has been allocated over the average useful life of fifteen years, only one-fifteenth of it having been taken into the period of investigation. The Authority has examined the exemption certificates, customs entries and purchase records relating to both components and has satisfied itself as to the amounts so determined. The rate determined upon equipment reflects that allocation.

90. Based upon the verified information available on record, the Authority determines that the programme constitutes a financial contribution which is specific and which confers a countervailable benefit, and that the subsidy margins determined thereunder are as follows:

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Producer / Exporter	Component	Subsidy margin	Range (%)
Kibing Group (M) Sdn. Bhd.	Raw materials	***	0–10
Kibing Group (M) Sdn. Bhd.	Equipment	***	0–10

Programme 6: Exemption from Import Duty on Raw Materials, Machinery and Spare Parts

91. **Views of the Domestic Industry.** The Government of Malaysia grants exemption from import duty on imported raw materials, components, machinery, spares and consumables used in manufacturing activities. Such exemptions reduce the cost of production and constitute government revenue foregone within Article 1.1(a)(1)(ii) of the SCM Agreement, and are specific to enterprises satisfying the prescribed eligibility conditions.

92. **Submissions by the Government and other interested parties.** The Government of Malaysia submitted that exemptions from import duty on raw materials and components are governed by the Customs Act 1967 and related customs notifications. All three participating Malaysian producers/exporters submitted that they availed exemption from import duty on raw materials, spare parts, accessories and machinery — two of them under the Licensed Manufacturing Warehouse scheme established under Section 65A of the Customs Act 1967, and the third under the applicable customs framework. It was further submitted that exemption from import GST is merely a creditable indirect tax and therefore does not constitute a subsidy, and, in relation to a separate allegation, that exemptions relating to import duty and sales tax on spares, machinery, equipment and raw materials arise automatically under the preferential tariff treatment available under the India–ASEAN Free Trade Agreement upon submission of the prescribed Certificate of Origin, and accordingly do not involve a financial contribution by the Government of Malaysia.

93. **Examination by the Authority.** The Authority accepts the contention in relation to import GST: a creditable indirect tax which the taxpayer would in any event recover confers no benefit, and no amount has been countervailed on that account. The Authority likewise accepts the contention in relation to preferential tariff treatment under a free trade agreement: such treatment is not a subsidy and no amount has been countervailed on that account.

94. Exemption from import duty otherwise payable constitutes revenue foregone within Article 1.1(a)(1)(ii) of the SCM Agreement. A Licensed Manufacturing Warehouse licence is granted upon application to and approval by the Royal Malaysian Customs Department, and the exemption is available only to licence holders in respect of an approved list of goods. The programme is accordingly **specific within the meaning of Article 2.1(a) and Article 2.1(c)** of the SCM Agreement. The Authority notes that in the case of one respondent the import duty exempted on raw materials is nil, the applicable tariff upon its raw material imports being zero, the benefit arising only upon machinery and spare parts.

95. **Computation of the benefit.** The benefit is the import duty which would have been payable upon the goods entered under the exemption but for the exemption. The Authority has taken the assessable value of the goods entered during the period of investigation under each

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exemption, as appearing from the respondent's own customs entries, and has applied to that value the rate of import duty which would otherwise have been chargeable under the Malaysian customs tariff for the heading concerned. The numerator is the amount so computed; the denominator is the total turnover of the respondent in the period of investigation. The Authority has examined the customs entries of each respondent and the amounts of duty foregone appearing from them. In the case of Kibing Group (M) the duty foregone upon raw materials has been taken in full into the period of investigation. In the case of Xinyi Energy Smart (Malaysia) and of Jinjing Technology Malaysia the Authority finds that the duty foregone upon machinery and upon spare parts has been reported as a single amount and allocated over a period of twelve years, the basis of that period not being stated in either annexure. In their post-disclosure comments, the said respondents have submitted that the allocation period is supported by their questionnaire responses and accounting records and should be retained. Having examined the same, the Authority has treated the benefit, which relates to capital assets employed in production over a number of years, as non-recurring, and has allocated it over the average useful life of fifteen years adopted in the methodology, consistently with the treatment of the exemption on equipment in the case of Kibing Group (M) Sdn. Bhd. The rates determined upon machinery and spare parts are accordingly very small and are shown to four decimal places; the Authority records that such a rate is not a determination that no benefit was conferred, but that the amount attributable to the period of investigation is negligible.

96. Based upon the verified information available on record, the Authority determines that the programme constitutes a financial contribution which is specific and which confers a countervailable benefit, and that the subsidy margins determined thereunder are as follows:

Producer / Exporter	Component	Subsidy margin	Range (%)
Kibing Group (M) Sdn. Bhd.	Raw materials	***	0–10
Xinyi Energy Smart (Malaysia) Sdn. Bhd.	Machinery and spare parts	***	0–10
Jinjing Technology Malaysia Sdn. Bhd.	Raw materials	***	0–10
Jinjing Technology Malaysia Sdn. Bhd.	Machinery and spare parts	***	0–10

Programme 7: Income-Tax Exemption under the Northern Corridor Economic Region

97. **Origin and legal basis.** This programme was not disclosed by the Government of Malaysia. It was raised by the domestic industry. The respondent referred to it in its questionnaire response, stating that it had received no actual benefit under it, and furnished its tax records in support. The programme is established from those records and from the respondent's own audited financial statements for the year 2024 and its income-tax return for the year of assessment 2024. The exemption is granted under P.U.(A) 112/2006, the Income Tax (Exemption) (No. 12) Order 2006, made under section 127(3)(b) of the Income Tax Act 1967, through the Northern Corridor Implementation Authority, and exempts 100 per cent of the statutory income from approved activities for the years of assessment 2022 to 2026, extendable

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to 2031. The respondent's own records establish that the exemption was in force throughout the period of investigation.

98. **Examination by the Authority.** An exemption from tax otherwise payable constitutes government revenue otherwise due which is foregone, within Article 1.1(a)(1)(ii) of the SCM Agreement. The exemption is available only to enterprises located within a designated geographical region and approved by the administering authority, and is accordingly specific within the meaning of Article 2.2 and, in the alternative, Article 2.1(a) of the SCM Agreement.

99. **Computation of the benefit.** The benefit is the tax which would have been payable but for the exemption, in the year of assessment falling within the period of investigation. The respondent's tax records for that year show that no tax was foregone under the programme, the tax payable being the same with or without the exemption. The Authority accordingly determines that no countervailable benefit arose under this programme in the period of investigation, which is consistent with the explanation given by the respondent in its questionnaire response. The programme may be examined in any future proceeding. The subsidy margin under this programme is accordingly as follows:

Producer / Exporter	Subsidy margin	Range (%)
Jinjing Technology Malaysia Sdn. Bhd.	Nil	0–10

H.2 Programmes determined not to be countervailable

Policy Lending from Chinese Banks / BRI Capacity Cooperation Projects

100. The Authority sought clarification regarding alleged policy lending from Chinese State-owned banks under BRI(Belt and Road Initiative) related programmes, including whether the participating exporters had received any financing directly or indirectly. Jinjing Technology Malaysia and Xinyi Energy Smart (Malaysia) each submitted that they had not received any direct loan under the alleged programme and that there was no BRI-linked investment, while providing without prejudice a calculation of policy lending. Kibing Group (M) submitted that it had obtained a loan from its Chinese parent company and that the parent company had not obtained any loan under the BRI Industrial Policy, directly or indirectly.

101. **Examination by the Authority.** The Authority has examined the submissions and notes that the loans in question were availed by the Chinese entities in China and not by the participating exporters from financial institutions in the subject countries. The subsequent transfer of funds by the Chinese parent or related entities to their Malaysian affiliates does not, by itself, establish the provision of a financial contribution by the Government of Malaysia or a benefit to the Malaysian producers/exporters under the alleged programme. Accordingly, in the absence of evidence of a financial contribution by the Government of a subject country to the participating exporters, the said loans cannot be treated as a countervailable subsidy in the present investigation.

Provision of Electricity for Less Than Adequate Remuneration

102. The Authority sought details of the applicable electricity tariff, electricity consumption and the relevant tariff classification. Jinjing Technology Malaysia submitted that it was covered

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under tariff category N6 and furnished electricity bills and consumption information. Kibing Group (M) submitted that it was covered under Tariff E2, being the Medium Voltage Peak/Off-Peak Industrial Tariff, and furnished electricity bills. Xinyi Energy Smart (Malaysia) reported tariff categories E2 and E3 and furnished electricity bills and consumption information. Each submitted that the tariff applied uniformly to industrial consumers falling within the relevant category and was not specific to the glass industry.

103. **Examination by the Authority.** The Authority has examined the tariff categories reported, the electricity bills and consumption information furnished on record, and the published tariff schedules of the Malaysian electricity supply industry placed on record. Upon that examination the Authority notes that:

- i. the unit rates recorded in the respondents' billing correspond to the published tariff schedule for the tariff category applicable to each respondent;
- ii. the published tariffs apply to all industrial consumers meeting the voltage and maximum demand criteria of the relevant category, those being objective technical criteria;
- iii. the published schedules provide for separate special industrial tariff categories available only to qualified consumers at materially lower rates, and none of the respondents was supplied under any such category; and
- iv. the billing discloses no element borne by the Government, the scheduled rates having been applied and the applicable fuel cost pass-through and renewable energy fund charges having been levied upon the consumer in addition thereto, and the rates payable having risen during the period of investigation.

104. Based upon the verified information available on record, the Authority determines that the provision of electricity in Malaysia is not specific within the meaning of Article 2 of the SCM Agreement and does not confer a countervailable benefit upon the participating producers/exporters, and no amount has been countervailed on that account.

H.3 Programmes determined not to have been used during the POI

105. In respect of each of the programmes listed below, the Government of Malaysia and each of the responding producers/exporters have confirmed non-avilment, and the questionnaire responses, tax records, customs records and supporting documentation examined by the Authority establish that none of the participating producers/exporters applied for or received any benefit during the period of investigation. The Authority accordingly determines that these programmes were not used during the period of investigation, and it is unnecessary to reach a conclusion upon their countervailability in principle.

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#	Programme	#	Programme
1	Market Development Grant	12	Double Deduction for Promotion of Malaysian Brand
2	Science Fund	13	Incentive for Manufacturing and Manufacturing-Related Services in the ECER
3	Techno Fund	14	Drawback on Import Duty, Sales Tax and Excise Duty
4	Inno Fund	15	Exemption from Import Duty and Sales Tax for Outsourcing Manufacturing Activities
5	Cradle Investment Programme	16	Double Deduction for Promotion of Exports
6	Commercialization of Research and Development Fund	17	Double Deduction for Promotion of Export Cargo
7	Export Excellence Programme	18	Incentives for Small and Medium Enterprises
8	Export Credit Refinancing	19	Allowance for Increased Export
9	Pioneer Status	20	Tax Exemptions for Exporters in Free Trade Zones
10	Group Relief	21	Tax Incentives for In-house R&D
11	Tariff Related Incentive	22	Soft Loan to SMEs

106. In respect of the programmes at serial numbers 18 and 22, the Authority additionally notes that the responding producers/exporters do not satisfy the statutory definition of a small or medium enterprise under the applicable criteria, including the prescribed thresholds relating to Malaysian ownership and business size, and are therefore ineligible. In respect of the programme at serial number 13, none of the respondents is located within the East Coast Economic Corridor. In respect of the programme at serial number 9, the income-tax exemption held by Jinjing Technology Malaysia Sdn. Bhd., to which it referred in its questionnaire response, has been examined as Programme 7.

107. In respect of the programme at serial number 14, the Authority notes the submission of the Government of Malaysia that the drawback programme is administered by the Royal Malaysian Customs Department through case-by-case applications for refund of import duties paid on imported goods that are subsequently re-exported, and that it conforms to Annexes I, II and III of the SCM Agreement. The Authority records that a drawback scheme confined to the remission of duty actually levied upon inputs consumed in the production of exported products is not a subsidy, and that only excess remission is countervailable. No respondent having availed the programme, it is unnecessary to determine whether any excess remission arises and the Authority does not do so.

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108. **Buyer Credit Guarantee.** The domestic industry alleged that the Government of Malaysia provides guarantees supporting credit extended to buyers of Malaysian exports. The Government of Malaysia has identified the programme as the Bankers Trade Credit Takaful administered by the Export-Import Bank of Malaysia Berhad, which protects financial institutions against the risk of non-payment arising from default by overseas buyers, and has stated that no responding producer or exporter received any benefit under it during the period of investigation. Xinyi Energy Smart (Malaysia) and Kibing Group (M) each stated that neither they nor their overseas buyers received any financing or guarantee under the programme. The protection under the programme is afforded to the financial institution and not to the producer or exporter, so that a benefit to a producer or exporter does not follow from the existence of the programme but must be established; and an export credit guarantee or insurance programme is countervailable where the premium rates are inadequate to cover the long-term operating costs and losses of the programme (item (j) of Annexure III to the Rules). No material bearing upon the premium rates, or upon the long-term operating costs and losses of the programme, has been placed upon the record by any party, nor has the domestic industry proposed any comparator. In the absence of such material the Authority determines that a countervailable benefit under this programme has not been established upon the record of this investigation, and no amount has accordingly been countervailed.

I. SUBSIDY MARGINS**I.1 Malaysia**

109. The subsidy margins determined in respect of the participating producers/exporters from Malaysia are as follows:

Xinyi Energy Smart (Malaysia) Sdn. Bhd.

Name of Programme	Brief description	Subsidy margin	Range (%)	Nature of subsidy
Subsidies on Natural Gas	Government-regulated pricing of natural gas	***	0–10	Provision of goods for less than adequate remuneration
Investment Tax Allowance and Reinvestment Allowance	Income-tax allowance on approved promoted activity and on qualifying reinvestment, reported as a single amount and so determined	***	0–10	Revenue foregone
Land at LTAR	Land made available at less than adequate remuneration	***	0–10	Provision of goods for less than adequate remuneration
Import duty exemption	Exemption from import duty on machinery and spare parts	***	0–10	Revenue foregone
Total subsidy rate		11.61%	10–20	

NON-CONFIDENTIAL**Kibing Group (M) Sdn. Bhd.**

Name of Programme	Brief description	Subsidy margin	Range (%)	Nature of subsidy
Subsidies on Natural Gas	Government-regulated pricing of natural gas	***	0–10	Provision of goods for less than adequate remuneration
Sales tax exemption — raw materials	Exemption from sales tax on eligible raw materials and packaging	***	0–10	Revenue foregone
Land at LTAR	Land made available at less than adequate remuneration	***	0–10	Provision of goods for less than adequate remuneration
Industrial Building Allowance	Allowance on qualifying industrial building expenditure	***	0–10	Revenue foregone
Investment Tax Allowance	Income-tax allowance on approved promoted activity	***	0–10	Revenue foregone
Import duty exemption — raw materials	Exemption from import duty on eligible raw materials	***	0–10	Revenue foregone
Sales tax exemption — equipment	Exemption from sales tax on imported equipment	***	0–10	Revenue foregone
Accelerated Capital Allowance	Accelerated depreciation of qualifying capital assets	***	0–10	Revenue foregone
Total subsidy rate		11.44%	10–20	

NON-CONFIDENTIAL**Jinjing Technology Malaysia Sdn. Bhd.**

Name of Programme	Brief description	Subsidy margin	Range (%)	Nature of subsidy
Subsidies on Natural Gas	Government-regulated pricing of natural gas	***	0–10	Provision of goods for less than adequate remuneration
Land at LTAR	Land made available at less than adequate remuneration	***	0–10	Provision of goods for less than adequate remuneration
Import duty exemption — raw materials	Exemption from import duty on eligible raw materials	***	0–10	Revenue foregone
Import duty exemption — machinery and spare parts	Exemption from import duty on machinery and spare parts, reported as a single amount and so determined	***	0–10	Revenue foregone
Accelerated Capital Allowance	Accelerated depreciation of qualifying capital assets	***	0–10	Revenue foregone
Total subsidy rate		8.58%	0–10	

I.2 Residual subsidy margins for non-participating producers / exporters

110. For producers and exporters of Malaysia which did not participate in the investigation, the subsidy margin has been determined on the basis of **facts available** in accordance with **Rule 7(8)** of the **Rules** and Article 12.7 of the SCM Agreement. The Authority has determined the residual margin as the sum, programme by programme, of the highest rate determined for that programme among the cooperating producers/exporters of Malaysia. A producer which has not participated has not demonstrated that it availed less than the most subsidised cooperating producer of any programme, while the residual so determined remains confined to programmes shown upon the record to have been used. No residual margin falls to be determined in respect of Indonesia, the investigation in respect of that country is terminated.

Subject country	Residual subsidy margin	Range (%)
Malaysia	15.66%	10–20

I.3 De minimis

111. **The Authority notes that no producer or exporter of Malaysia has a subsidy margin below the de minimis threshold**, the lowest margin determined being 8.58% (range 0–10%), which is above both the general threshold of one per cent and the threshold of two per cent applicable to a product originating from a developing country.

NON-CONFIDENTIAL**ASSESSMENT OF INJURY AND CAUSAL LINK****J. METHODOLOGY FOR INJURY ASSESSMENT**

112. **Rule 13** of the Rules deals with the principles governing the determination of injury and 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 causal 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.”

113. The Authority records that the present determination proceeds upon the basis of **present material injury**. Neither threat of material injury nor material retardation of the establishment of an industry is claimed or determined.

J.1 De minimis, negligibility of import volumes and cumulation

114. **Rule 16(1)(c) and Rule 16(1)(d) of the Rules** require the Authority to terminate an investigation immediately, by issue of a public notice, if it determines that the amount of subsidy is less than one per cent ad valorem, or in the case of a product originating from a developing country the amount of subsidy is less than two per cent; or that the volume of the subsidised imports, actual or potential, or the injury where applicable, is negligible, or in the case of a product originating in a developing country the volume of the subsidised imports represents less than four per cent of the total imports of the like product into India, unless imports from developing countries whose individual shares of total imports represent less than four per cent collectively account for more than nine per cent of the total imports of the like product into India. The said provisions give effect to Article 27.10(a) and Article 27.10(b) of the SCM Agreement. The obligation is couched in mandatory terms, and where the threshold is attracted no discretion survives to continue the investigation in respect of the country concerned.

115. **Status of the subject countries as developing countries.** Neither Section 9 of the Act nor the Rules define the expression “developing country”, and no list of developing countries has been notified for the purposes of Section 9 or of the Rules. Indonesia and Malaysia are classified as developing economies in the classification of economies maintained by UNCTAD upon the basis of the Standard Country or Area Codes for Statistical Use (M49) of the United Nations Statistics Division, and stand notified as developing countries at Serial No. 53 and Serial No. 69 respectively of Notification No.19/2016-Customs (N.T.) dated 05.02.2016 [F. No. 21000/22/2015-OSD(ICD)], issued in supersession of Notification No. 103/98-Customs

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dated 14.12.1998. Both countries are developing country Members of the World Trade Organization for the purposes of Article 27 of the SCM Agreement. The Authority notes that Notification No. 19/2016-Customs (N.T.) has been issued under clause (a) of sub-section (6) of Section 8B of the Act, that is to say for the purposes of safeguard measures, and that there is no corresponding notification under Section 9; the notification is nonetheless the only enumeration of developing countries made by the Central Government under the Act, and is corroborative of a status which rests primarily upon the position of the two countries as developing country Members under the SCM Agreement. **The Authority determines that Indonesia and Malaysia are each a developing country for the purposes of Rule 16(1) of the Rules.**

116. The Authority further notes that the graduation of a Member from paragraph (b) of Annex VII to the SCM Agreement is of no consequence to the present question. Annex VII(b) governs the exemption from the prohibition upon export subsidies and the differentiated de minimis level under Article 27.11; the four per cent volume threshold under Article 27.10(b), as incorporated in Rule 16(1)(d), applies to all developing country Members without distinction, and the Rules prescribe only two de minimis subsidy levels, of one per cent generally and two per cent for a developing country.

117. **De minimis — Rule 16(1)(c).** The subsidy margins determined in relevant Section exceed two per cent ad valorem in the case of each participating producer/exporter of Malaysia and in the case of the residual margin determined for that country. No margin determined is de minimis, whether upon the general standard of one per cent or upon the standard of two per cent applicable to a product originating from a developing country. **Rule 16(1)(c) is accordingly not attracted in respect of Malaysia.** No subsidy margin having been determined in respect of Indonesia, Rule 16(1)(c) does not fall for application to that country; the investigation in respect of Indonesia is terminated under Rule 16(1)(d) upon the volume of imports.

118. **Volume of subsidised imports — Rule 16(1)(d).** The volume of imports of the like article into India from each subject country and from all other sources, expressed as a share of the total imports of the like article into India from all sources, is as follows:

Particulars	2021-22	2022-23	2023-24	POI
Indonesia as % of total imports	0.65%	0.16%	1.44%	3.40%
Malaysia as % of total imports	60.56%	85.97%	79.21%	88.95%
All other sources as % of total imports	38.79%	13.87%	19.35%	7.65%

119. Imports from Malaysia constituted 88.95% of the total imports of the like article into India during the period of investigation and were above the four per cent threshold in each year of the injury period. **The threshold prescribed under Rule 16(1)(d) is not attracted in respect of Malaysia.**

120. **Imports from Indonesia were 12,858 MT during the period of investigation, being 3.40% of the total imports of the like article into India of 3,78,226 MT, which is below the threshold of four per cent prescribed under Rule 16(1)(d) of the Rules.** The share of Indonesia was below four per cent in each year of the injury period. The share has been computed upon the volume of the total imports of the like article into India from all sources, and not upon the imports from the subject countries alone or upon demand in India, and upon volume

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and not upon value. The volumes and shares relied upon in this head are drawn from the transaction-wise import data of the Directorate General of Systems and Data Management, restricted to the product under consideration. The post-disclosure submission of the domestic industry questioning the share of imports from Bangladesh has been examined in Section Q below, and the country-wise composition set out below is confirmed.

121. The exemption under Rule 16(1)(d) is not, however, established by the individual share alone. Two further matters fall for determination before any conclusion is recorded, namely the collective proviso and the potential volume of the subsidised imports. The first is determined below upon the country-wise import data on record; the second is examined thereafter:

- i. **The collective proviso.** The exemption stands displaced where imports from developing countries, each of which individually accounts for less than four per cent of the total imports of the like article into India, collectively account for more than nine per cent of such total imports. Only developing countries individually below four per cent are aggregated for this purpose; countries not entitled to developing-country treatment, and developing countries individually at or above four per cent, are excluded from the aggregation, the proviso applying by its terms to “developing countries whose individual shares of total imports represent less than four per cent”.
- ii. The country-wise composition of the total imports of the like article into India during the period of investigation, and the application of the proviso to each source, is as follows:

Country of origin	Volume (MT)	Share of total imports	Individually below four per cent
Malaysia	3,36,441	88.952%	No
Bangladesh	19,482	5.151%	No
Indonesia	12,858	3.400%	Yes
Iran	4,480	1.184%	Yes
Turkey	3,557	0.940%	Yes
China PR	1,282	0.339%	Yes
Spain	82	0.022%	Yes
Romania	44	0.012%	Yes
Total imports	3,78,226	100.000%	

- i. Imports from Bangladesh were 19,482 MT during the period of investigation, being 5.151% of the total imports of the like article into India. Bangladesh is accordingly not a country “whose individual share of total imports represents less than four per cent”, and its volume is excluded from the aggregation under the proviso upon the same ground as that upon which the volume of Malaysia is excluded. The Authority records that this exclusion is determinative of the present question: were the volume of Bangladesh to be brought into the aggregation, the collective share would be 11.05% of the total imports and the proviso would be attracted. The exclusion follows, however, from the express words of the proviso, which admit of aggregation only of those developing countries

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whose individual shares are below four per cent, and the Authority can neither add to nor subtract from those words.

- ii. Upon the volumes of Malaysia and of Bangladesh standing excluded, the remaining sources individually below four per cent, other than Indonesia, accounted for 9,445 MT during the period of investigation, being 2.497% of the total imports of the like article into India. **Aggregating that volume in its entirety with the 3.400% of Indonesia, the collective share is 5.897% of the total imports of the like article into India, which is below the nine per cent threshold prescribed under Rule 16(1)(d) of the Rules.** The Authority has deliberately adopted for this purpose the assumption most adverse to the exemption, namely that every source individually below four per cent is a developing country entitled to aggregation, whatever its actual status may be. Upon the narrower and more accurate basis, Spain and Romania not being developing countries, the collective share is lower still, and the determination therefore does not turn upon the status of any individual third country.
- iii. **The proviso to Rule 16(1)(d) is accordingly not attracted.** The Authority further notes that the conclusion is not sensitive to the completeness of the import compilation. Bangladesh would fall below the four per cent threshold, and so enter the aggregation, only if the total imports of the like article into India exceeded 4,87,050 MT, that is to say only if the compilation relied upon were understated by more than 1,08,824 MT; and even upon that hypothesis the collective share of every source individually below four per cent, Bangladesh included, would be 8.58% and would remain below the nine per cent threshold.
- iv. **Potential volume.** Rule 16(1)(d) refers to the volume of the subsidised imports “actual or potential”. Where the record discloses idle or expanding capacity in the subject country, an established export orientation and freely disposable quantities capable of being directed to India, a potential volume above the threshold may be established notwithstanding a low share during the period of investigation; such a determination must rest upon positive evidence and not upon conjecture. The Authority examined the capacity, capacity utilisation, export orientation and freely disposable quantities of the producers of the subject goods in Indonesia upon the material on record, and notes in this regard that two producers identified by the Government of Indonesia commenced commercial operation towards the close of the period of investigation.

122. **Determination.** The individual share of Indonesia is below four per cent in the period of investigation and in each year of the injury period. The collective proviso is not attracted. As regards potential volume, nothing on the record establishes, upon positive evidence, any quantity capable of being directed to India above the threshold: no party has alleged a figure, no capacity or capacity-utilisation data for the producers of the subject goods in Indonesia has been furnished by the Government of Indonesia or by any other party, and a determination of potential volume cannot rest upon the bare fact that producers exist. The Authority accordingly terminates the investigation, in terms of Rule 16(1)(d) of the Rules, in respect of imports of the subject goods originating in or exported from Indonesia. The investigation stands continued in respect of Malaysia, and imports from Indonesia stand excluded from the assessment of the effects of the subsidised imports and from any recommendation.

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123. **Cumulation.** Article 15.3 of the SCM Agreement and paragraph (iii) of Annexure I to the Rules provide that where imports of a product from more than one country are being simultaneously subjected to anti-subsidy investigation, the Authority will cumulatively assess the effect of such imports in case it determines that:

- a. the amount of subsidisation established in relation to the imports from each country is more than one per cent ad valorem and the volume of imports from each country is not negligible; and
- b. a cumulative assessment of the effects of the imports is appropriate in the light of the conditions of competition between the imported products and the like domestic product.

124. **Cumulation does not arise.** The condition precedent to a cumulative assessment is that imports from more than one country are simultaneously subjected to investigation. Upon the termination in respect of Indonesia, the imports of only one subject country, Malaysia, remain under investigation. There is accordingly nothing to cumulate, and the question whether a cumulative assessment would be appropriate in the light of the conditions of competition does not fall for determination.

125. **The assessment of injury in this Section has accordingly been carried out upon the imports from Malaysia alone.** The volume, landed value and price parameters set out below are those of Malaysia, drawn from the transaction-wise import data restricted to the product under consideration. The Authority records, for completeness, that the exclusion of Indonesia does not materially alter any parameter: upon the cumulated imports of both countries the landed value moved from ₹ 30,614 per MT in the base year to ₹ 19,876 per MT in the period of investigation, against ₹ 30,708 per MT and ₹ 19,842 per MT upon the imports of Malaysia alone, and the price undercutting in the period of investigation is in the range of 30–40% upon either basis. The range of undercutting is unchanged in every year of the injury period.

K. VOLUME EFFECT OF THE SUBSIDIZED IMPORTS

K.1 Submissions made on behalf of the opposing interested parties

126. The submissions of the opposing interested parties with regard to injury and causal link are as follows:

- i. That the domestic industry's own data show significant improvements in demand, sales, production, capacity, production of the product under consideration and employment during the injury period, with only profitability deteriorating, which is inconsistent with a finding of material injury.
- ii. That imports from Indonesia remained insignificant during most of the injury period and constituted only a small share of total imports during the period of investigation. The decline in profitability is attributable to the domestic industry's capacity expansion, increased capital expenditure and other internal factors, rather than Indonesian imports. Inefficiencies and expansion-related costs should be excluded while determining the non-injurious price.
- iii. That imports from Malaysia declined during the period of investigation despite rising demand, and that the domestic industry increased its sales and market share during the

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same period. The deterioration in profitability resulted from higher depreciation and interest costs arising from substantial capital investment, and not from subject imports.

- iv. That declining capacity utilisation, rising inventories and deterioration in return on investment reflect the domestic industry's own operational and investment decisions rather than injury caused by imports.
- v. That no causal link exists between imports from Indonesia and the alleged injury, given the low volume of Indonesian imports and the failure to conduct a proper non-attribution analysis; and that in terms of Article 15.5 of the SCM Agreement and Annexure I to the Rules the Authority must distinguish the effects of subsidised imports from those of other known factors.

K.2 Submissions made on behalf of the Domestic Industry

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

- i. That despite the presence of the domestic industry and other producers, the imports have dominated the market, and imports from the subject countries constituted a significant share of the market during the period of investigation.
- ii. That the subsidised imports are undercutting the prices of the domestic industry, the undercutting being significantly positive during the period of investigation, and that the subject imports have continuously caused strain on the prices of the domestic industry, being priced lower than its selling price throughout the injury period.
- iii. That in the period of investigation the landed value of the subject goods was below both the cost of sales and the selling price of the domestic industry, demonstrating price pressure; that the subsidised imports have had a suppressing effect upon the prices of the domestic industry; and that due to the constant pressure of subsidised imports the domestic industry has been unable to dispose of its production sufficiently and its inventory has accumulated.
- iv. That the interested parties have selectively relied upon positive economic indicators while ignoring the significant deterioration in profitability, cash profits, return on investment and price parameters.
- v. That the deterioration in performance is attributable to significant price undercutting and price suppression caused by subsidised imports, and that the increase in depreciation and interest costs arising from capacity expansion reflects commercial investment decisions undertaken to meet growing demand and cannot by itself explain or negate the injury suffered.
- vi. That the existence of other factors, including expansion-related costs, does not sever the causal link where subsidised imports have materially suppressed domestic prices.

NON-CONFIDENTIAL**K.3 Examination by the Authority**

128. In consideration of the various submissions made by the interested parties and the domestic industry, the Authority has examined the injury to the domestic industry on account of subsidised imports from Malaysia. The injury analysis made hereunder addresses the various submissions made by the interested parties. The contention that imports from Indonesia constituted only a small share of the total imports has been accepted and has been given effect under the head of negligibility of import volumes above, the investigation in respect of that country having been terminated; imports from Indonesia are accordingly treated hereafter as imports from a non-subject source. The submissions of the interested parties directed to Indonesia, and to the absence of a causal link between Indonesian imports and the injury claimed, do not fall for further consideration.

Assessment of demand / apparent consumption

129. 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:

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Particulars	UoM	2021-22	2022-23	2023-24	POI
Imports from Malaysia — subject country	MT	1,33,608	3,46,139	3,61,898	3,36,441
Imports from Indonesia — non-subject source	MT	1,436	640	6,599	12,858
Imports from all other sources	MT	85,585	55,867	88,393	28,927
Imports from all sources other than Malaysia	MT	87,021	56,507	94,992	41,785
Total imports	MT	2,20,629	4,02,646	4,56,890	3,78,226
Domestic sales of the domestic industry	MT	***	***	***	***
Trend	Indexed	100	96	112	126
Sales of other Indian producers	MT	***	***	***	***
Trend	Indexed	100	119	129	108
Total demand	MT	***	***	***	***
Trend	Indexed	100	111	128	130
Imports from Malaysia as % of demand	%	5–10	15–20	15–20	15–20
Imports from Malaysia as % of total imports	%	60.56%	85.97%	79.21%	88.95%

130. In view of the above, it is noted that:

- i. Imports from Malaysia showed a significant increase over the years, from 1,33,608 MT in 2021-22 to 3,36,441 MT during the period of investigation, an increase of 152%.
- ii. The share of Malaysia in **total imports** increased from 60.56% in the base year to 88.95% in the period of investigation, while the share of all other sources, Indonesia included, declined from 39.44% to 11.05%.
- iii. The share of Malaysia in **Indian demand** increased from a range of 5–10% in the base year to a range of 15–20% in the period of investigation.
- iv. Demand for the subject goods increased by 30% over the injury period; however, the market share of the domestic industry declined and the share of Malaysia in demand increased.

131. **The Authority has considered the contention that imports from Malaysia declined during the period of investigation.** It is correct that imports from Malaysia declined from 3,61,898 MT in 2023-24 to 3,36,441 MT in the period of investigation, and that the domestic sales of the domestic industry increased over the same period with a recovery in its market share.

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The Authority determines, however, that **the injury suffered during the period of investigation is predominantly a price effect and not a volume effect**. Over the same period the landed value of the subject imports declined to an index of 65, price undercutting reached its highest level of the injury period, the selling price of the domestic industry declined to an index of 93 while its cost of sales rose to an index of 143, and the domestic industry moved from profit into loss. The domestic industry retained volume only by conceding price. Injury under Annexure I falls to be assessed upon volume and price effects together, and a finding of material injury does not require that import volumes rise in the period of investigation.

L. PRICE EFFECT OF THE SUBSIDIZED IMPORTS

132. In terms of Annexure I(iii) to the Rules, with regard to the effect of the subsidised imports on prices, the Authority is required to consider whether there has been significant price undercutting by the subsidised 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 to prevent price increases which otherwise would have occurred to a significant degree.

L.1 Price undercutting

133. Price undercutting has been determined by comparing the net sales realisation of the domestic industry with the landed price of the imports, as below:

Particulars	Unit	2021-22	2022-23	2023-24	POI
Landed value	₹/MT	30,708	29,939	22,323	19,842
Trend	Indexed	100	97	73	65
Domestic selling price	₹/MT	***	***	***	***
Trend	Indexed	100	121	98	93
Price undercutting	₹/MT	***	***	***	***
Price undercutting	%	***	***	***	***
Price undercutting	Range	Negative	10–20	20–30	30–40

134. It is noted that price undercutting was negative in the base year, the landed value then exceeding the selling price of the domestic industry, and turned positive from 2022-23 onwards, rising to a range of 30–40% in the period of investigation. The Authority determines that during the period of investigation the subject imports were significantly undercutting the prices of the domestic industry.

L.2 Price suppression and price depression

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

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Particulars	Unit	2021-22	2022-23	2023-24	POI
Cost of sales	₹/MT	***	***	***	***
Trend	Indexed	100	129	117	143
Selling price	₹/MT	***	***	***	***
Trend	Indexed	100	121	98	93
Landed price	₹/MT	30,708	29,939	22,323	19,842
Trend	Indexed	100	97	73	65

136. **Price depression.** It is noted that the selling price of the domestic industry declined in absolute terms from an index of 121 in 2022-23 to an index of 93 in the period of investigation, ending the injury period 7% below the base year, while the landed value of the subject imports declined over the same period to an index of 65. **The Authority determines that the subsidised imports have had a depressing effect upon the prices of the domestic industry.**

137. **Price suppression.** Over the same period the cost of sales of the domestic industry increased by 43%. The domestic industry was thereby prevented from raising its prices in tandem with its costs and was on the contrary compelled to reduce them. **The Authority determines that the subsidised imports have prevented price increases which would otherwise have occurred, to a significant degree, and have thereby had a suppressing effect upon the prices of the domestic industry.**

138. It is further noted that during the period of investigation the landed value of the subject goods remained lower than both the cost of sales and the domestic selling price of the domestic industry.

M. ECONOMIC PARAMETERS RELATING TO THE DOMESTIC INDUSTRY

139. The Rules require that the determination of injury shall involve an objective examination of the consequent impact of subsidised imports on the domestic producers of the subject goods, including an objective evaluation of all relevant economic factors and indices having a bearing on the state of the industry. The various injury parameters relating to the domestic industry are discussed below.

NON-CONFIDENTIAL**M.1 Production, capacity, capacity utilisation and sales volumes**

Particulars	UoM	2021-22	2022-23	2023-24	POI
Capacity	MT	***	***	***	***
Trend	Indexed	100	105	130	157
Total production	MT	***	***	***	***
Trend	Indexed	100	103	120	142
Production of PUC	MT	***	***	***	***
Trend	Indexed	100	98	112	128
Capacity utilisation	%	95%	93%	87%	86%
Domestic sales	Indexed	100	96	112	126
Export sales	MT	***	***	***	***
Trend	Indexed	100	32	35	58
Closing inventory	MT	***	***	***	***
Trend	Indexed	100	98	264	379

140. From the above, the Authority notes that the domestic industry increased its capacity by 57% throughout the injury investigation period to cater to the increasing demand in India. Capacity utilisation nonetheless declined from 95% to 86% during the same period, implying that around 14% of the installed capacity remained unutilised despite a significant increase in the demand for the subject goods. It is noted that the Indian producers possess sufficient installed capacity to cater to the entire domestic demand.

M.2 Market share

Particulars	Unit	2021-22	2022-23	2023-24	POI
Indian producers including other producers	%	85–90	75–80	75–80	80–85
Subject country imports	%	5–10	20–25	15–20	15–20
Other country imports	%	5–10	0–5	0–5	0–5

141. It is noted that despite having sufficient capacity to cater to the entire Indian demand, the share of the Indian producers in the Indian market declined from a range of 85–90% in the base year to a range of 80–85% in the period of investigation, while during the same period the share of imports from the subject countries increased from a range of 5–10% to a range of 15–20%.

M.3 Inventories

Particulars	Unit	2021-22	2022-23	2023-24	POI
Average inventory	MT	***	***	***	***
Trend	Indexed	100	117	226	382

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142. It is noted that the average inventories of the domestic industry increased throughout the injury investigation period and were highest during the period of investigation, at nearly four times the base year level.

M.4 Profit or loss, cash profit and return on capital employed

Particulars	Unit	2021-22	2022-23	2023-24	POI
Cost of sales	Index	100	129	117	143
Selling price	Index	100	121	98	93
Profit / (loss) per MT	Index	100	86	15	(130)
Profit / (loss), total	Index	100	82	16	(164)
Cash profit / (loss), total	Index	100	87	49	(69)
Return on investment	Index	100	88	12	(118)

143. From the above, the Authority notes that the selling price of the domestic industry declined in the period of investigation as compared with the preceding years while its cost of sales increased, and that the domestic industry moved from profit in the base year to loss in the period of investigation, from cash profit into cash loss, and from a positive to a negative return on investment.

M.5 Employment, wages and productivity

Particulars	Unit	2021-22	2022-23	2023-24	POI
Number of employees	Indexed	100	96	121	134
Salaries and wages	Indexed	100	99	105	123
Salaries and wages per employee	Indexed	100	104	87	92
Productivity per day	Indexed	100	98	112	128

144. It is noted that the number of employees increased throughout the injury investigation period as the domestic industry increased its capacity to cater to the increased demand, and that productivity per day also increased. Wages per employee ended the injury period below the base year level although they increased between 2023-24 and the period of investigation. **The Authority determines that employment, wages and productivity do not indicate an adverse impact.** A determination of material injury does not require that every parameter be adverse.

NON-CONFIDENTIAL**M.6 Growth**

Particulars	Unit	2022-23	2023-24	POI
Demand	%	11%	15%	2%
Production	%	(2%)	14%	15%
Domestic sales	%	(4%)	17%	13%
Domestic sales realisation	%	21%	(19%)	(5%)
Profit / loss per MT	%	(14%)	(83%)	(983%)
Cash profit per MT	%	(13%)	(43%)	(240%)
Return on capital employed	%	(9%)	(88%)	(1141%)

145. From the above, the Authority notes that while the demand for the subject goods increased substantially during the injury investigation period, the growth in the price and financial parameters of the domestic industry was significantly negative in the period of investigation, which is reflective of the deterioration in its performance.

M.7 Ability to raise capital investment

146. The domestic industry has submitted that it has incurred steep losses and is facing negative returns, that its earnings before interest, taxes, depreciation and amortisation have continuously deteriorated over the injury period and remained negative, and that there is consequently a negative impact upon its ability to raise capital investment. **The Authority notes that the domestic industry moved from profit into loss during the period of investigation, that its cash profit and its return on capital employed turned negative, and that it undertook substantial capital investment over the injury period which it has been servicing out of a deteriorating income stream. The Authority determines that the ability of the domestic industry to raise capital investment has been adversely affected.**

M.8 Magnitude of the subsidy margin

147. The margin of subsidy is an indicator of the extent to which the subsidised imports can cause injury to the domestic industry. The subsidy margins determined in relevant Section are positive, significant and above the de minimis level in respect of Malaysia, the sole subject country remaining under investigation.

M.9 Factors affecting the prices of the domestic industry

148. It is noted that the domestic industry has not been able to increase its prices to a remunerative level during the period of investigation. The imports have forced the domestic industry to sell the goods below cost, and the low-priced imports have also resulted in reduced market share and underutilized capacity. The subject imports have thus adversely affected the prices of the domestic industry.

M.10 Conclusion on injury

149. Having examined all the parameters set out above, the Authority concludes that the domestic industry has suffered material injury during the period of investigation in the form of

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significant price undercutting, price depression and price suppression, resulting in losses, cash losses, negative return on investment, accumulation of inventories and declining capacity utilisation, notwithstanding the growth in its volume parameters. Accordingly, the Authority determines that the domestic industry has suffered material injury on account of the subsidised imports from Malaysia.

N. NON-ATTRIBUTION ANALYSIS

150. Having examined the existence of injury and the volume and price effects of the subsidised imports, the Authority has examined whether injury to the domestic industry can be attributed to any factor other than the subsidised imports, as listed under the Rules and in accordance with Article 15.5 of the SCM Agreement, and has separated and distinguished the injurious effects of such other factors.

N.1 Capacity expansion, depreciation and interest cost

151. The opposing interested parties have contended that the deterioration in profitability is attributable to the domestic industry's own capacity expansion and to the resulting depreciation and interest burden rather than to the subject imports. The domestic industry has answered that the expansion was a commercial response to growing demand and cannot by itself explain or negate the injury.

152. **Examination by the Authority.** The Authority accepts that capacity expansion of the order undertaken by the domestic industry will have increased its depreciation and interest charges and hence its cost of sales, and that a part of the increase in the cost of sales over the injury period is attributable to that expansion and not to the subject imports. To that extent the contention is well founded and the effect has not been attributed to the subsidised imports.

153. The contention nonetheless does not explain the injury suffered. **Capacity expansion explains rising costs. It does not explain falling prices.** Over the injury period the cost of sales of the domestic industry rose by 43% while its selling price fell by 7%. A producer facing rising costs in an undistorted market would raise its prices, or at the least hold them; the domestic industry reduced them, in a growing market, in the face of imports whose landed value declined to an index of 65 and which undercut its prices in the range of 30–40% in the period of investigation. **The divergence between a 43% increase in cost and a 7% reduction in price is a price effect of the subsidised imports and is not explained by any internal factor advanced.**

154. The Authority further notes that the under-recovery of fixed costs arising from the decline in capacity utilisation from 95% to 86% is itself a consequence of the inability of the domestic industry to sell its production in the face of the subsidised imports, as evidenced by the increase in average inventories to 382% of the base year level in a market in which demand rose by 30%. That effect is properly attributed to the subject imports and not to the expansion which created the capacity.

NON-CONFIDENTIAL**N.2 Volume and price of imports from third countries**

155. Upon the termination in respect of Indonesia, imports from that country fall to be examined under this head together with the imports of every other non-subject source. The volume and the landed value of imports from all sources other than Malaysia are as follows:

Particulars	UoM	2021-22	2022-23	2023-24	POI
Volume, all sources other than Malaysia	MT	87,021	56,507	94,992	41,785
Share of total imports	%	39.44%	14.03%	20.79%	11.05%
Share of Indian demand	%	5–10	0–5	0–5	0–5
Landed value, sources other than Malaysia	₹/MT	20,254	21,192	18,712	16,965
Landed value, Malaysia	₹/MT	30,708	29,939	22,323	19,842

156. **Volume.** Imports from the non-subject sources fell from 87,021 MT in the base year to 41,785 MT in the period of investigation, and their share of Indian demand from a range of 5–10% to a range of 0–5%. The Authority does not describe the movement as a continuous decline: the volume rose to 94,992 MT in 2023-24, being 20.79% of total imports and above the base-year volume, before falling in the period of investigation. Taken across the injury period as a whole the volume declined, and at less than 5% of demand in the period of investigation it is too small a share of the market to have displaced the domestic industry, whose own share of demand is many times greater.

157. **Price.** The Authority records that the landed value of the non-subject imports remained below that of the imports from Malaysia throughout the injury period, and that imports from Bangladesh in particular entered the Indian market at a markedly low unit value in the period of investigation. The Authority does not treat this comparison of aggregate unit values as establishing that the non-subject imports set the price in the Indian market. A unit value computed over all entries from a source reflects the mix of thicknesses, qualities and grades entered from that source, and the record contains no analysis reconciling the product-mix of any non-subject source with that of the subject imports or of the domestic like article. A low aggregate unit value is therefore as consistent with a thinner or lower-grade mix of entries as it is with a genuinely lower price for goods comparable to those under consideration.

158. **Examination.** The price injury found in these final findings does not rest upon a comparison between one import source and another. It rests upon the comparison between the landed value of the subject imports and the domestic industry's own selling price and cost of sales: undercutting in the range of 30–40% in the period of investigation, a selling price that fell 7% while the cost of sales rose 43%, and a movement from profit into loss. Imports of less than 5% of demand cannot explain a price effect of that magnitude across the whole market, and the volumes concerned declined over the injury period while the injury deepened. **The Authority therefore determines that the injury suffered by the domestic industry is not attributable to the imports from non-subject sources.** The Authority records that it has examined this factor upon price as well as upon volume. No interested party has, in its post-disclosure comments,

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placed on record any comparison of the non-subject imports with the domestic like article on a like-for-like basis of thickness and grade, or any other material showing that the non-subject imports set the price in the Indian market.

N.3 Competition from other Indian producers

159. Two Indian producers are outside the domestic industry but within the Indian market, their sales having been in the range of 10–15% of demand in the period of investigation, and having declined from the level of 2023-24. **The Authority determines that competition from these producers did not cause the injury suffered by the Applicants**, their volumes having declined in a growing market in the same period and in the same direction as the price and financial parameters of the Applicants, which is consistent with pressure from a common external source and not with displacement within the domestic industry.

N.4 Contraction in demand and pattern of consumption

160. The Authority notes that the demand for the subject goods increased throughout the injury investigation period. The domestic industry has therefore not suffered injury due to a contraction in demand. It is further noted that there has been no material change in the pattern of consumption of the product under consideration which could have caused injury to the domestic industry.

N.5 Conditions of competition and developments in technology

161. The Authority notes that there is no evidence of conditions of competition or trade restrictive practices which could have been responsible for the claimed injury to the domestic industry, and that there has been no change in technology for the production of the subject goods which could have caused such injury.

N.6 Export performance and productivity of the domestic industry

162. The injury information examined hereinabove relates only to the performance of the domestic industry in terms of its domestic market. Export volumes were in any event small, having declined to an index of 58 in the period of investigation (base year = 100) and being a small fraction of its domestic sales. Productivity per day increased over the injury period. The injury suffered cannot be attributed to the export performance or to the productivity of the domestic industry.

N.7 Conclusion on causal link

163. The Authority has examined the volume and price effects of the subsidised imports and each of the other known factors advanced or apparent upon the record, and has separated and distinguished the injurious effects of those other factors, in particular the effect of the domestic industry's own capacity expansion upon its cost of sales, which has not been attributed to the subsidised imports. The Authority confirms that there is clear causal link between the injury suffered by the domestic industry and imports from Malaysia.

NON-CONFIDENTIAL**O. MAGNITUDE OF INJURY MARGIN**

164. The Authority has determined the non-injurious price for the domestic industry in accordance with the principles and the methodology uniformly adopted by the Authority for the determination of the non-injurious price. The non-injurious price of the product under consideration has been determined by adopting the verified information and data relating to the cost of production for the period of investigation. For determining the non-injurious price, the best utilisation of the raw materials by the domestic industry over the injury period has been considered, and the same treatment has been carried out with the utilities. The best utilisation of production capacity over the injury period has been considered. It is ensured that no extraordinary or non-recurring expenses are charged to the cost of production. A reasonable return (pre-tax @ 22%) on average capital employed, that is average net fixed assets plus average working capital, for the product under consideration was allowed as pre-tax profit to arrive at the non-injurious price in accordance with the said methodology.

165. **The Authority has considered the contention that inefficiencies and expansion-related costs should be excluded in determining the non-injurious price.** The contention is well founded in principle and has been given effect. The principles of best utilisation applied to raw materials, utilities and production capacity operate to exclude the inefficiency arising from under-utilized capacity, and the exclusion of extraordinary and non-recurring expenses operates to exclude one-time expansion costs, so that the non-injurious price is not inflated by the domestic industry's own inefficiency.

166. The landed price for the cooperating exporters has been determined on the basis of the data furnished by the exporters. For all the non-cooperating producers/exporters of Malaysia, the Authority has determined the landed price on the basis of facts available. **The injury margin is the amount by which the non-injurious price exceeds the landed price, expressed as a percentage of the landed price.** A single weighted average non-injurious price has been applied to every producer and exporter of Malaysia. No injury margin has been determined in respect of Indonesia, the investigation in respect of that country being terminated.

Producer / Exporter	Injury margin (%)	Range (%)
Malaysia		
Kibing Group (M) Sdn. Bhd.	***	10–20
Xinyi Energy Smart (Malaysia) Sdn. Bhd.	***	20–30
Jinjing Technology Malaysia Sdn. Bhd.	***	30–40
Any other producer / exporter	***	40–50

P. ISSUES OF THE INDIAN INDUSTRY**P.1 Submissions made on behalf of the opposing interested parties**

167. The submissions of the other interested parties with regard to the Indian industry's interest are as follows:

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- i. That anti-subsidy duties on the subject goods will significantly raise production costs for the downstream industry.
- ii. That higher costs could lead to imports of the ultimate products into India.
- iii. That the impact of the duties is much more than what is indicated by the domestic industry.

P.2 Submissions made on behalf of the Domestic Industry

168. The submissions of the domestic industry with regard to the Indian industry's interest are as follows:

- i. That in the light of the widening trade deficit it is important to rely more on domestic production capacities, and that the imposition of duties would allow conservation of foreign exchange favouring the balance of payments account.
- ii. That the impact of the imposition of anti-subsidy duty on the subject goods will be negligible as compared with the cost of the final product.
- iii. That since there are already six players in the market, there would be no monopoly in India and users would have enough sources in the domestic market as well.
- iv. That the product under consideration can be imported at fair prices from other sources also, and that there would therefore be no adverse impact on users.
- v. That the impact of duties would be minimal in project cost based on the prices prevailing in the period of investigation.

P.3 Examination by the Authority

169. The Authority notes that the primary objective of anti-subsidy duty is to remedy the injury caused to the domestic industry by subsidisation and to restore conditions of fair competition in the Indian market. The imposition of anti-subsidy measures is not designed to restrict imports; it follows a determination of subsidisation, injury and the causal link between the two, and operates to ensure that imports are available at fair and non-subsidised prices. The imposition of duty would not affect the availability of the product.

170. The Authority issued the initiation notification inviting the views of all interested parties, including importers, consumers and others, and prescribed a questionnaire for users and consumers to provide relevant information. An Economic Interest Questionnaire was also prescribed to allow various stakeholders, including the domestic industry, producers/exporters and importers, users and consumers, to furnish pertinent information related to the investigation including the possible effect of anti-subsidy duty upon their operations.

171. **The Authority notes that no importer, user or user association filed a questionnaire response or any submission in the present investigation.** The contentions so recorded have accordingly been advanced without any supporting evidence, and no party has furnished any analysis, data or working showing how the duty would affect its financial performance or the price to the final consumer. The estimate of the domestic industry that the impact upon end consumers would be insignificant stands uncontroverted upon the record.

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172. The Authority further notes that six producers operate in the Indian market and that the product under consideration is available from non-subject sources, so that the imposition of duty would not restrict the availability of the product or competition in the Indian market.

Q. POST-DISCLOSURE COMMENTS**Q.1 Submissions made on behalf of the opposing interested parties**

173. Post-disclosure comments have been received from Xinyi Energy Smart (Malaysia) Sdn. Bhd., Jinjing Technology Malaysia Sdn. Bhd. and Kibing Group (M) Sdn. Bhd., each dated 24.09.2026, and from other interested parties. The following submissions have been made by them:

- a. That the Authority has recorded the responding producers/exporters as cooperating parties, and that their individual subsidy margins should be determined on the basis of the data furnished in their own questionnaire responses, as examined against their supporting records during desk verification, without resort to petition-based estimates or residual methodology.
- b. That the subsidy margins determined under certain programmes require correction, the computation not being in accordance with the methodology recorded by the Authority; that the benefit under the income-tax programmes should be the tax actually foregone and not the gross amount of the allowance; and that the amounts paid for natural gas, as reflected in the invoices on record, have not been correctly recorded.
- c. That the Authority has not examined whether the prices actually paid by the respondents for natural gas were distorted, and that arm's-length domestic transactions in Malaysia should have been considered before resorting to an out-of-country benchmark.
- d. That the adoption of an out-of-country benchmark is inconsistent with the approach adopted by the Authority in its recent findings concerning Textured Tempered Glass from Malaysia.
- e. That the source and underlying data of the out-of-country benchmark have not been adequately disclosed.
- f. That any out-of-country benchmark must be appropriately adjusted for differences in the nature and delivery of gas, transportation, regasification, quality, calorific value, contractual terms, taxes and other relevant factors.
- g. That the Malaysia Industrial Park Directory is a general publication and not a transaction-specific benchmark for the land, tenure, location and conditions concerned.

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- h. That the land was not received directly from the Government or a public body, having been acquired from an affiliate, and that the finding of financial contribution requires reconsideration.
- i. That the allocation of the land benefit over fifteen years lacks a disclosed basis, and that the tenure of the land and the past practice of the Authority warrant a longer allocation period.
- j. That the exchange rates applied do not correspond to those furnished by the respondents in their questionnaire responses.
- k. That the allocation period adopted by the respondents for the exemption from import duty on machinery and spare parts is supported by their records and should be retained.
- l. That the relevant relationships and transactions with related and cross-owned entities have been disclosed in the questionnaire responses, that no specific undisclosed transaction or benefit has been identified, and that no adverse inference should be drawn.
- m. That the Minimum Import Price recently introduced for Clear Float Glass is a material change in import conditions, that an additional ad valorem countervailing duty would result in over-remediation, and that, in the alternative, the duty should take the form of a reference price.
- n. That the Authority may kindly confirm the proposed termination of the CVD investigation in respect of Indonesia under Rule 16(1)(d), since the verified imports from Indonesia were below the prescribed 4% threshold and the collective share of developing countries individually below 4% also remained below the applicable 9% threshold. Consequently, no subsidy margin, injury margin or countervailing duty is warranted against Indonesia, and no adverse finding concerning the alleged Indonesian subsidy programmes should be recorded.
- o. That, since no programme-wise determination has been made in respect of Indonesia, the Respondent's rights and submissions concerning the alleged subsidy programmes remain fully reserved. In the event the Authority proposes to depart from the proposed termination, the Respondent should be provided the complete factual and legal basis, programme-wise essential facts, benchmarks and calculations, along with a meaningful opportunity to respond before any such finding is incorporated in the Final Findings.

NON-CONFIDENTIAL**Q.2 Submissions made on behalf of the Domestic Industry**

174. The domestic industry, in its comments dated 23.09.2026, has made the following submissions:

- a. That the Disclosure Statement itself records material deficiencies in the disclosures made by the participating Malaysian producers/exporters with respect to their related, affiliated and cross-owned entities. It was submitted that the exporters have not furnished complete information regarding such entities and their transactions relating to electricity, land, finance, inputs, utilities and services. The Domestic Industry contended that such information is material for determining the existence, recipient, nature, quantum and attribution of countervailable benefits and, therefore, the deficient disclosures cannot form the basis for determination of individual subsidy margins without appropriate recourse to facts available under Rule 7(8). Reliance was placed upon Japan – DRAMs (Korea), US – Countervailing Measures on Certain Products from Korea and Article 12.7 of the SCM Agreement.
- b. That Jinjing Technology Malaysia Sdn. Bhd. has not disclosed the income-tax exemption for a “5+5” year period recorded at page 90 of the Annual Report 2025 of its group, which requires examination for determination of the complete countervailable subsidy.
- c. The Domestic Industry has further drawn attention to the United States Department of Commerce determination concerning the same product and Malaysian exporters, wherein cross-owned entities were identified in the corporate structures of Jinjing Malaysia and Xinyi Malaysia. The Domestic Industry has clarified that it does not seek mechanical adoption of the subsidy rates determined by the U.S. authority, but submits that the determination independently demonstrates the relevance of group-level examination and reinforces the need for complete disclosure of related and cross-owned entities in the present investigation.
- d. That verification cannot cure a fundamentally incomplete response, as verification is intended to verify information disclosed by a respondent and cannot substitute for disclosure of entities and transactions which the respondent failed to identify in its response. The Domestic Industry has therefore requested that, to the extent the necessary information remains undisclosed, the Authority determine the subsidy attributable to the exporters on the basis of facts available under Rule 7(8), including appropriate attribution of benefits received by relevant related or cross-owned entities.
- e. That the Government of Malaysia has not provided the programme-wise information sought by the Authority, including information concerning subsidy programmes countervailed by the U.S. authority and the reasons for their alleged non-applicability in the present investigation. It has been submitted that assertions of non-applicability, in the absence of the underlying information and supporting evidence, cannot substitute for information necessary for verification.

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- f. With respect to imports from Bangladesh, that the application had placed such imports below 3% of total imports at about ₹ 22,000/MT, and that the Authority should re-check the share of 5.151% recorded in the Disclosure Statement; and that such imports are subject to provisional assessment pursuant to the order dated 19.12.2022 of the Hon'ble Delhi High Court in *Asahi India Glass Limited v. Union of India & Anr.*, W.P.(C) 17186/2022, which should be taken into account while examining their volume, price and market significance.
- g. That the Authority should confirm existence of material injury and causal link in the Final Findings.

Q.3 Examination by the Authority

175. The Authority has examined the post-disclosure submissions made by the interested parties. The majority of these submissions reiterate arguments already examined and addressed in the relevant paragraphs of these final findings. To the extent submissions raise new or specific contentions, they are examined below.

On the status of the responding producers/exporters as cooperating parties

176. The responding producers/exporters filed their questionnaire responses within the time allowed, responded to the clarifications sought, and furnished the records against which their responses were examined. They have accordingly been treated as cooperating, and individual subsidy margins have been determined for each of them on the basis of their own information. Where a programme was referred to by an exporter otherwise than in its programme-wise answers, the Authority has examined it on the basis of the records on file.

On the computation of subsidy margins

177. The Authority has examined the contentions of the responding exporters that the subsidy margins require reconsideration on the basis of the exporters' own computations. The benefit amounts, turnover and other figures adopted in the determination are those which emerged upon desk verification of each respondent's supporting records. Where the verified figure differed from the self-reported figure, the verified figure has been preferred. On re-examination, the Authority has found that the benefits reported by Kibing Group (M) Sdn. Bhd. under the Investment Tax Allowance, the Industrial Building Allowance and the Accelerated Capital Allowance represented the gross allowance and not the tax foregone, and that the sales tax exemption on equipment, being a capital-linked benefit, had been expensed wholly to the period of investigation. These benefits have been recomputed as recorded under Programmes 3, 4 and 5, and the subsidy margin of Kibing Group (M) Sdn. Bhd. and the residual subsidy margin for Malaysia have been revised accordingly. The revision is downward and arises from the

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respondent's own submissions. Save as aforesaid, the subsidy margins as determined are maintained.

On the natural gas benchmark

178. The Authority has considered the submissions that (a) the Authority has not examined whether the prices paid by the individual respondents are distorted; (b) observable arm's-length domestic transactions in Malaysia should have been considered before resorting to an out-of-country benchmark; (c) the adoption of an Indonesian benchmark is inconsistent with the Authority's finding dated 03.03.2026 in the anti-subsidy investigation concerning imports of Textured Tempered Glass from Malaysia; and (d) the source and underlying data for the benchmark have not been adequately disclosed.

179. On point (a), the finding in paragraphs 66 to 68 is not a finding that the individual respondent's transaction was distorted; it is a finding that the Malaysian domestic reference price itself — being the administered price fixed under the very framework alleged to confer the subsidy, in a market in which a wholly State-owned corporation is the sole aggregator of domestic supply — cannot serve as a measure of the adequacy of remuneration. The inquiry under Article 14(d) is directed to the adequacy of the remuneration, not to the terms of the individual buyer's contract.

180. On point (b), no respondent has placed on record any arm's-length, non-administered domestic gas price prevailing in Malaysia during the period of investigation which could have served as an in-country benchmark. No alternative in-country price has been identified.

181. On point (c), each investigation proceeds upon its own record, its own product under consideration and its own period of investigation. The determination in the Textured Tempered Glass investigation was made upon a different record and does not bind the present investigation.

182. On point (d), the benchmark prices were drawn from the published tariff schedules and publicly available gas-price data for the non-administered segment of the Indonesian gas market, as placed on the record. The month-wise series, the price category and the figures have been disclosed in the Disclosure Statement and in these final findings.

183. As regards the submission that the Indonesian benchmark should be subject to adjustments, the Authority notes that the benchmark adopted for April 2024 was the non-administered pipeline price for the lowest published consumer category, being the figure least adverse to the respondents. For the remaining months, the regasified LNG price has been taken. The respondents have not placed on record any quantification of the adjustments they seek. In the absence of quantified adjustments, no adjustment has been made.

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184. On the benchmark, no respondent furnished a guideline value or contended that a contemporaneous comparable transaction was available. The Authority has relied upon the Malaysia Industrial Park Directory, applying the lower end of the reported range. No alternative benchmark has been placed on the record. The benchmark is maintained.

185. On the submission that the land was acquired from a cross-owned affiliate, the Authority reiterates the finding in paragraph 49(iii): the interposition of a cross-owned affiliate does not defeat the finding of financial contribution.

186. On the allocation period, the benefit has been allocated over fifteen years under Annexure IV, the allocation period being referable to the useful life of the asset employed in production and not to the duration of the title. As regards the Aluminium Primary Foundry Alloy Ingot investigation, that determination was made upon a different record and does not bind the present investigation.

On the exchange rate

187. The Authority has applied the exchange rate drawn from each respondent's own books and supporting records as verified during desk verification. The verified rates are confirmed.

On the allocation period for import duty exemption on machinery and spare parts

188. Having examined the respondents' submissions, the Authority notes that the exemption from import duty on machinery relates to capital assets employed in production over a number of years, and is accordingly a non-recurring benefit. Consistently with the methodology recorded in Section G and with the treatment of the exemption on equipment in the case of Kibing Group (M) Sdn. Bhd., the benefit has been allocated over the average useful life of fifteen years. The allocation period of twelve years proposed by the respondents is accordingly not adopted.

On related and cross-owned entities

189. Subsidies received by a cross-owned entity are attributable to a respondent only where that entity supplies an input primarily dedicated to the production of the subject goods, or is a holding company or a producer of the subject goods, and has itself received a financial contribution from the Government of Malaysia. The Authority has applied that test to each entity named by the domestic industry. **Jinjing:** its own records, including its income-tax return, disclose no purchase of inputs from any related entity in Malaysia, and its related-party transactions are with entities outside Malaysia or with private entities, none of which involves a financial contribution by the Government of Malaysia. **Xinyi:** Xinyi has disclosed purchases of a material from a related entity and transportation services from Xin Yun Logistics (Malaysia) Sdn.

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Bhd.; transportation services are not an input into the subject goods, and no programme has been identified under which the related supplier received a financial contribution in respect of the material supplied. **Other entities named:** as regards Xinyi Photovoltaic (Malaysia) Co., Ltd., CS Eco Glass (M) Sdn. Bhd. and Malaysia Kibing Energy Saving Glass Co., Ltd., no material has been placed on record showing that any of them supplied an input to the respondent concerned in the period of investigation or received a financial contribution from the Government of Malaysia attributable to the subject goods. The contention that the responses be rejected in their entirety is accordingly not accepted. The concern that all benefits be examined is accepted; the exemption held by Jinjing has been examined as Programme 7.

On Jinjing's income-tax exemption and U.S. Commerce findings

190. **Jinjing's income-tax exemption.** The contention of the domestic industry has been examined. Jinjing's own records establish that it held an exemption of 100 per cent of its statutory income under the Northern Corridor Economic Region during the period of investigation, and the programme has been examined as Programme 7. Jinjing itself referred to the exemption in its questionnaire response and explained that no benefit had been received under it. Its tax computation for the year of assessment falling within the period of investigation shows that no statutory income was exempted and no tax was foregone. For the reasons recorded at Programme 7, no amount has been countervailed under it.

191. **U.S. Commerce findings.** The U.S. Department of Commerce identified Jinjing Silicon Technology Sdn. Bhd. and Xin Yun Logistics (Malaysia) Sdn. Bhd. as cross-owned with Jinjing and Xinyi respectively. The Authority has examined whether these entities supplied inputs to the respondents. Jinjing's own records disclose no purchase from any related entity in Malaysia, and no transaction with Jinjing Silicon Technology Sdn. Bhd. Xin Yun Logistics provides transportation services, which is not an input into the subject goods. The U.S. determination rests upon a different period and record, and establishes cross-ownership but not the supply of any input in the present period of investigation. The contention is examined and not accepted.

On non-submission of programme-wise information by the Government of Malaysia

192. The Authority has assessed the relevant programmes on the basis of the information and explanations available on record. Where information was not furnished, the Authority has proceeded on the basis of facts available in accordance with the Rules.

On the import data from Bangladesh

193. The share of imports from Bangladesh has been determined from the transaction-wise import data of DG Systems for the product under consideration, being 19,482 MT out of total imports of 3,78,226 MT, or 5.151 per cent. The figure in the application was an estimate made at the stage of initiation on the information then reasonably available; the domestic industry has not

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placed on record any transaction-level data establishing a different volume, and the primary data prevail. The provisional assessment pursuant to the order of the Hon'ble Delhi High Court affects the duty liability on those imports, not the fact or the volume of their import for home consumption, and they are accordingly counted in total imports. The contention is examined and not accepted.

On the Minimum Import Price notification

194. The MIP is a trade-policy measure issued under the Foreign Trade (Development and Regulation) Act, 1992, distinct in legal basis, purpose, duration and administering authority from a countervailing duty under Section 9 of the Customs Tariff Act, 1975. The two measures operate independently. The injury determination and subsidy margins have been established upon verified data for the period of investigation. The MIP, having been notified after the period of investigation, does not affect the determination of subsidisation or injury. The existence of a separate trade-policy measure of limited duration does not remove the need for a measure to offset the subsidisation and injury found where subsidisation, injury and causal link have been established.

195. The submission that the duty should take the form of a reference price is not accepted. The ad valorem form is consistently adopted by the Authority in countervailing duty proceedings and is appropriate in the present case.

On material injury and causal link

196. The Authority confirms material injury to the domestic industry on account of subsidised imports from Malaysia, as determined on the basis of verified import data, price effects, injury parameters and other relevant factors on record.

On the termination of the investigation in respect of Indonesia

197. The volume of imports from Indonesia is below the four per cent threshold in the period of investigation and in each year of the injury period. The collective share of developing countries individually below four per cent is below nine per cent. No interested party placed evidence of potential volume above the threshold on the record. The termination under Rule 16(1)(d) is confirmed. No subsidy margin, injury margin or countervailing duty is determined or recommended in respect of Indonesia, and no programme-wise finding has been made. The Indonesian respondent's rights concerning the alleged programmes are noted as reserved.

NON-CONFIDENTIAL**R. CONCLUSION**

198. Having regard to the contentions raised, information provided, and submissions made by the interested parties and facts available before the Authority, as recorded in the above finding, and on the basis of above analysis of the subsidisation, injury and causal link to the domestic industry, the Authority concludes as follows:

- i. The Applicants constitute the domestic industry within the meaning of Rule 2(b) of the Rules and the application satisfies the criteria of standing.
- ii. The product under consideration is Clear Float Glass of nominal thickness 4 mm to 12 mm as per BIS 14900:2000, and the subject goods produced by the domestic industry are a like article thereto.
- iii. Indonesia and Malaysia are each a developing country for the purposes of Rule 16(1) of the Rules. The volume of the subsidised imports from Indonesia was 3.40% of the total imports of the like article into India in the period of investigation, which is below the threshold of four per cent, and the collective share of all developing countries individually below four per cent is 5.897%, which is below the threshold of nine per cent. The investigation in respect of Indonesia is accordingly terminated under Rule 16(1)(d), and no subsidy margin, injury margin or duty is recommended in respect of that country.
- iv. The volume of imports from Malaysia is above the threshold prescribed under Rule 16(1)(d), and the investigation continues in respect of that country.
- v. Countervailable subsidies were availed by the participating producers and exporters of Malaysia during the period of investigation, the subsidy margins determined being 11.61% (range 10–20%) in respect of Xinyi Energy Smart (Malaysia) Sdn. Bhd., 11.44% (range 10–20%) in respect of Kibing Group (M) Sdn. Bhd. and 8.58% (range 0–10%) in respect of Jinjing Technology Malaysia Sdn. Bhd., with a residual margin of 15.66% (range 10–20%) for Malaysia
- vi. The domestic industry has suffered injury during the period of investigation in the form of significant price undercutting, price depression and price suppression. The injury so suffered is material, being reflected in losses, cash losses, negative return on investment, accumulation of inventories and declining capacity utilisation.
- vii. The injury margins determined in respect of the producers and exporters of Malaysia are as set out in Section O above, and in every case the subsidy margin is lower than the injury margin, so that the duty recommended upon application of the lesser duty rule is equal to the subsidy margin.
- viii. The material injury suffered by the domestic industry has been caused by the subsidised imports of the subject goods from Malaysia. The injurious effects of the other known factors, in particular the effect of the capacity expansion of the domestic industry upon its cost of sales, have been separated and distinguished and have not been attributed to the subsidised imports.

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- ix. The Authority is satisfied that the imposition of a definitive countervailing duty on imports of the subject goods originating in or exported from Malaysia is warranted to offset the subsidisation and the injury caused thereby, in the form and manner set out in Section S below.

S. RECOMMENDATIONS

199. The Authority notes that the investigation was initiated and notified to all interested parties including Government of Malaysia and adequate opportunity was given to provide information/evidence on the aspect of subsidization, injury and causal links in favour or against thereof. Having initiated and conducted the investigation into subsidization, injury and causal links in terms of the Rules laid down and having established positive subsidy margin as well as material injury to the domestic industry caused by such subsidized imports, the Authority is of the view that imposition of definitive countervailing duty is required to offset subsidization and injury. Therefore, the Authority considers it necessary to recommend imposition of definitive countervailing duty on the imports of the subject goods from Malaysia in the form and manner described hereunder.

200. In accordance with Rule 19 of the Rules, and having regard to the lesser duty rule followed, the Designated Authority hereby recommends the imposition of an anti-subsidy duty equal to the lesser of the margin of subsidy and the margin of injury on all imports of the subject goods originating in or exported from Malaysia so as to eliminate the material injury caused to the domestic industry.

Accordingly, under the powers conferred by the aforementioned provision, the Authority considers it necessary to recommend, and does hereby recommend, the imposition of a definitive anti-subsidy duty on the imports of the subject goods from Malaysia for a period of five (5) years from the date of publication of the official notification by the Central Government, at the rates specified in Column 7 of the duty table appended below

NON-CONFIDENTIAL**DUTY TABLE**

SN	Heading	Description	Country of origin	Country of export	Producer	Duty Amount as % of CIF value (7)
1	2	3	4	5	6	7
1	7003,7004, 7005,7007, 7008,7009, 7013,7015, 7016,7018, 7019 and 7020	Clear Float Glass of nominal thicknesses ranging from 4 mm to 12 mm (both inclusive), the nominal thickness being as per BIS14900:2000	Malaysia	Any country including Malaysia	Xinyi Energy Smart (Malaysia) Sdn. Bhd	11.61
2	-do-	-do-	Malaysia	Any country including Malaysia	Kibing Group (M) Sdn. Bhd.	11.44
3	-do-	-do-	Malaysia	Any country including Malaysia	Jinjing Technology Malaysia Sdn. Bhd	8.58
4	-do-	-do-	Malaysia	Any country including Malaysia	Any producer except 1 to3	15.66
5	-do-	-do-	Any country other than Malaysia	Malaysia	Any Producer	15.66

Note 1 – Customs classification mentioned above is only indicative.

Note 2 – The description of the product under consideration is “Clear Float Glass of nominal thicknesses ranging from 4 mm to 12 mm (both inclusive)”, the nominal thickness being as per BIS 14900:2000 (as amended), and irrespective of whether it is sold in the merchant market or captively transferred.

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201. 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 Clear Float Glass sold for export to India covered by this invoice was manufactured by (Producer name and address) in [country concerned]. 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 producers shall apply. This requirement is without prejudice to the verification procedures independently undertaken by the Customs authorities under the applicable customs law and regulations."

T. FURTHER PROCEDURE

202. An appeal against the order of the Central Government arising out of this final finding shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with Section 9C of the Customs Tariff Act, 1975.

**Digitally signed by
Amitabh Kumar
Date: 28-09-2026
16:31:25**

**(Amitabh Kumar)
Designated Authority**