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F. No.06/9/2018-DGAD
Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Trade Remedies
4th Floor, Jeevan Tara Building, 5- Parliament Street, New Delhi 110001

Date 21.02.2019

FINAL FINDING NOTIFICATION
(Case No.: O.I. 6/2018)

Subject: Anti-Dumping Investigation concerning imports of “Ethylene Vinyl Acetate (EVA) Sheet for Solar Module” from China PR, Malaysia, Saudi Arabia, South Korea and Thailand.

1. F.No.6/9/2018-DGAD: M/s RenewSys India Private Limited (hereinafter referred to as the “applicant” or “petitioner” or “domestic industry”) has filed an application before the Designated Authority (hereinafter also referred to as the Authority) in accordance with the Customs Tariff Act, 1975 as amended from time to time (hereinafter also referred to as the Act) and Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped articles and for Determination of injury) Rules, 1995 as amended from time to time (hereinafter also referred to as “the Rules”) for imposition of Anti-dumping duty on imports of “Ethylene Vinyl Acetate (EVA) Sheet for Solar Module”(hereinafter also referred to as the subject foods or PUC) from China PR, Malaysia, Saudi Arabia, South Korea and Thailand (hereinafter also referred to as subject countries).
2. Whereas, the Authority, on the basis of sufficient prima-facie evidence submitted by the applicant, issued a Notification No. 6/9/2018-DGAD dated 4th April, 2018, published in the Gazette of India Extraordinary, initiating the subject investigation in accordance with the Rule 5 of the Rules to determine existence, degree and effect of the alleged dumping of the subject goods, originating in or exported from China PR, Malaysia, Saudi Arabia, South Korea and Thailand and to recommend the amount of anti- dumping duty, which, if levied, would be adequate to remove the alleged injury to the domestic industry.

A. PROCEDURE

3. The procedure described herein below has been followed with regard to the subject investigation:
 - i. The Authority notified the Embassy of the subject countries in India about the receipt of the anti-dumping application before proceeding to initiate the investigation in accordance with sub-rule (5) of Rule 5 supra.

- ii. The Authority issued a notification dated 4th April, 2018, published in the Gazette of India Extraordinary, initiating anti-dumping investigation concerning imports of the subject goods from subject countries.
- iii. The Embassy of the subject countries in India was informed about the initiation of the investigations in accordance with Rule 6(2) of the Rules with a request to advise the exporters/ producers from the subject countries to respond to the questionnaire within prescribed time limit.
- iv. The Authority sent exporter's questionnaires to elicit relevant information to the following known producers/ exporters in the subject countries in accordance with Rule 6(4) of the Rules:
 1. M/s First EVA, China
 2. M/s Sveck, China
 3. M/s Hanwa Q Cells Solar Power, Malaysia
 4. M/s TPI, Thailand
 5. M/s Hanwa Q Cells (Thailand) Co. Ltd.
 6. M/s Wahaj, Saudi Arabia
 7. M/s Hanwa Q Cells Corp. South Korea
- v. In response to the above initiation notification, following exporters/ producers have responded or submitted exporter questionnaire responses.
 1. M/s Changzhou Bbetter Century Film Technologies Co., Ltd., China
 2. M/s Changzhou Bbetter International Trading Co., Ltd, China
 3. M/s Suzhou First PV Material Co., China
 4. M/s Hangzhou First Applied Material Co., China
 5. M/s First Global Business Co. Ltd., China
 6. M/s Changzhou Sveck PV New Materal Co. Ltd., China
 7. M/s Hanwha Advanced Materials Corporation, Korea
 8. M/s TPI All Seasons Co. Ltd. Thailand
 9. M/s Saudi Specialised Co., Saudi Arabia
- vi. The domestic industry in their application alleged that Chinese companies continue to operate on non-market economic conditions. Therefore, a Supplementary questionnaire on Market Economy conditions was also sent to the known producers/ exporters in China PR and the Embassy of China PR in India with a request to provide relevant information to the Authority within the prescribed time limit.

vii. None of the responding producers/ exporters from China have filed the said supplementary questionnaire response to rebut the above said claim of the domestic industry.

viii. The Authority sent Importer's Questionnaires to the following known importers/ users of subject goods in India calling for necessary information in accordance with Rule 6(4) of the Rules:

1. M/s Navitas green solutions pvt ltd
2. M/s Bharat heavy electricals limited
3. M/s Microsun solar tech pvt. Ltd
4. M/s Premier solar systems(p) ltd
5. M/s Akshaya solar power (india) pvt ltd
6. M/s Access solar limited
7. M/s Emmvee photovoltaic power private limited
8. M/s Lanco solar private limited
9. M/s Andromeda energy technologies pvt ltd.
10. M/s Innovative solar solutions sova power ltd
11. M/s Gautam solar private
12. M/s Limited alpex exports pvt ltd
13. M/s Goldi green technologies pvt ltd-surat
14. M/s Hbl power systems ltd
15. M/s Greentek india pvt ltd
16. M/s Abhishek solar industries pvt ltd
17. M/s Vikram solar pvt ltd aditi solar private limited
18. M/s Tata power solar system
19. M/s Rajasthan electronics & instruments ltd
20. M/s Central electronics limited
21. M/s Sirius solar energy system pvt ltd
22. M/s Integrated batteries india pvt ltd
23. M/s Sahaj solar pvt.ltd.
24. M/s Bharat heavy electricals limited
25. M/s Epd icon solar-en power technologies pvt. Ltd.
26. M/s Plaza power & infrastructure co.
27. M/s soltek photovoltek pvt ltd
28. M/s Suniva inc.
29. M/s Natco pharma limited
30. M/s Himalayan solar pvt ltd
31. M/s Jakson engineers limited
32. M/s Lubi electronics sova solar ltd (unit – ii)
33. M/s Sri savitr solar pvt.ltd
34. M/s Saatvik green energy private limited
35. M/s Hvr solar pvt .ltd
36. M/s Sanelite solar pvt ltd

37. M/s Insolation energy pvt. Ltd
38. M/s Alpex exports pvt ltd, greater noida
39. M/s Brawn energy pvt ltd
40. M/s Mehar solar technology pvt ltd
41. M/s Sanyo electric green
42. M/s Brilliance renewable energy llp
43. M/s H r solar solution private limited
44. M/s Swelect energy systems limited
45. M/s Enfros technologies pvt ltd
46. M/s Orb energy private limited
47. M/s Sunusa industries pvt ltd
48. M/s Schlaefer mahathi engineering industries pvt ltd
49. M/s Photon energy systems limited
50. M/s Huhtamaki ppl limited

ix. The following importers/ users or their Associations have responded or submitted importers questionnaire responses/ submissions:

1. M/s North India Module Manufacturers Association
2. M/s Waree Engineers
3. M/s Emmvee Photovoltaic Ltd.
4. M/s Insolation Energy Pvt. Ltd.
5. M/s PV Techno Power Ltd.
6. M/s Enkay Solar Energy Pvt. Ltd.
7. M/s Vikram Solar Ltd.

x. China Chamber of Commerce (CCCMC) and Embassy of South Korea also filed their submissions opposing the ongoing investigation.

xi. Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by the interested parties.

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

xiii. A Disclosure Statement was issued on 05.02.2019 containing essential facts under consideration of the Designated Authority, giving time up to 12.02.2019 to furnish comments, if any, on Disclosure Statement. The Authority has considered post disclosure comments received from interested parties appropriately

- xiv. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claims. 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. The parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis and the same were kept in the public file maintained by the Authority as per the Rules.
- xv. The Non-injurious Price (NIP) based on the cost of production and cost to make and sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) has been worked out to calculate injury margin for the Domestic Industry;
- xvi. The transaction wise import data for the subject goods was obtained from Directorate General of Commercial Intelligence and Statistics (DGCI&S), for the injury period including the POI. The Authority has relied upon import data procured from DGCI&S in the present investigation, wherever warranted.
- xvii. Based upon the submission of the interested parties and the subsequent verification of the import data revealed that the imports from Korea RP which were included in the Product under Consideration at the time of initiation were actually “EVA resins” which is the raw material for Product under Consideration. After excluding such entries from the total imports from Korea RP, it was observed that the imports from Korea was below *de-minimus*, in view thereof the Authority is terminating the investigation against Korea as per the provision of Rule 14(d). Therefore, the subject countries under the present investigation are only China PR, Malaysia, Saudi Arabia and Thailand.
- xviii. The Authority held oral hearing in terms of Rule 6(6) of the Anti-Dumping Rules on 19th July, 2018 providing opportunity to the interested parties to present their views orally.
- xix. Investigation was carried out for the period 1st October, 2016 to 30th September, 2017 (POI). The examination of trends, in the context of injury analysis, covered the period from 1ST April 2014- 31st March 2015, 1ST April 2015- 31st March 2016, 1ST April 2016- 31st March 2017 and the POI.
- xx. The submissions made by the interested parties during the course of the investigation have been considered by the Authority, wherever found relevant, in this Final Finding. Verification to the extent deemed necessary was carried out in respect of the information & data submitted by the domestic industry and the exporters.
- xxi. *** in this Final Finding notification represents information furnished by an interested party on confidential basis, and so considered by the Authority under the Rules.

xxii. The exchange rate adopted by the Authority for the subject investigation is 1 USD = Rs. 66.26.

B. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

Views of the Domestic industry

4. Following submissions have been made by the domestic industry with regard to product under consideration:
 - i. The product under consideration for the purpose of present investigation is “Ethylene Vinyl Acetate (EVA) Sheet for Solar Module”. It is the polymer based component used in the manufacturing of solar PV (Photo Voltaic) modules. EVA sheet is used for encapsulation of solar PV cells performing adhesion and cushioning functions. This is one of the essential component which keeps glass, cell and backsheet integrated and support the module mechanically during its service life time.
 - ii. The EVA sheet falls in the category of plastic sheeting and films made using extrusion technology. It is a thermoplastic material, a copolymer of Polyethylene, polymerized using tubular or autoclave process mainly.
 - iii. The petitioner produces EVA sheets in all types of widths and thicknesses as required by the module manufacturers.
 - iv. The product under consideration is classified under Chapter 39 and imported under HS codes 3901 30, 3920 10, 3920 62, 3920 99 and 3921 90. However, imports are also taking place under other HS codes.

Views of the Opposing Interested Parties

5. Following submissions have been made by the other interested parties with regard to the Product under Consideration:
 - i. The responding exporter from Thailand stated that the PUC sold by the company in the Thailand market are Potential Induced Degradation (PID) resistant goods and the exports to India were non PID goods. PID resistant goods have higher cost and this factor needs to be appropriately adjusted while making comparison between NV and EP to ensure apple to apple comparison.
 - ii. Some of the exporters have submitted that it appears the Petitioner has considered EVA resin as “PUC” in certain cases and thus, inflated the overall volume of imports from the subject countries. The concerned exporters requested the

Authority to ensure that the import statistics are properly sorted and only imports of EVA sheets are included for the Authority's assessment.

Examination by the Authority

6. At the time of the initiation, the Authority defined the Product under Consideration as "Ethylene Vinyl Acetate (EVA) Sheet for Solar Module". As per the information submitted by the Domestic Industry, the Product under Consideration is the polymer based component used in the manufacturing of solar PV (Photo Voltaic) modules. EVA sheet is used for encapsulation of solar PV cells performing adhesion and cushioning functions. As per the Domestic Industry, EVA is one of the essential component which keeps glass, cell and backsheets integrated and support the module mechanically during its service life time.
7. The EVA sheet falls in the category of plastic sheets and films made using extrusion technology. It is a thermoplastic material, a copolymer of Polyethylene, polymerized using tubular or autoclave process mainly. The product under consideration is generally imported under HS code 3901 30, 3920 10, 3920 62, 3920 99 and 3921 90. However, import are also taking place under other HS codes, therefore, it is clarified that the HS codes are only indicative and the product description shall prevail in all circumstances.
8. The petitioner has claimed that they can produce all kinds of widths and thicknesses of the EVA sheets required by the module manufacturers. The Authority notes that no interested party has disputed the claim of the Domestic Industry in this regard.
9. As regards the claim of the Thailand exporter with respect to the product variants sold by them in the domestic and export market, the Authority notes that the claims of the concerned exporter were examined in detail and it was found that the difference in costing of the different grades is not significant. Further, both the grades are replaceable and substitutable. In view thereof, the Authority decides that in the present case there is no need for any product differentiation on the basis of PCN.
10. As regards the concerns of the exporters with respect to the sorting of import data, the Authority notes that post initiation, import data was sought from DGCI&S and the Authority examined the import data in detail. It was found that some of the entries relating to Korea were of EVA resin which is the raw material for producing the Product under Consideration. The Authority has removed such entries from Product under Consideration and have considered the actual import figures for the purposes of analysis in the present investigation.
11. The Authority notes from the information available on record that the Product under consideration produced by the domestic industry and imported from the subject countries are comparable in terms of physical & chemical characteristics,

manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. The goods produced by the domestic industry and imported from the subject countries are like articles in terms of the Rules. The two are technically and commercially substitutable. Thus, the Authority holds that goods produced by the applicant domestic industry are like article to the product under consideration imported from subject countries in accordance with the AD Rules.

C. SCOPE OF DOMESTIC INDUSTRY & STANDING

Views of the Domestic industry

12. Following submissions have been made by the domestic industry with regard to scope and standing of the domestic industry:
- i. The domestic industry submitted that there were only four producers who produced the subject goods in India during the period of investigation namely M/s RenewSys India Private Limited, M/s Vishakha Renewables Pvt. Ltd., M/s Allied Glasses Pvt. Ltd and Ms. Brij Foot Care.
 - ii. The petition has been filed by M/s RenewSys India Private Limited, who is the largest producer of the subject goods in India and holds around 71% share in total domestic production. The petitioner has also submitted support letters from M/s Vishakha Renewables Pvt. Ltd and M/s Allied Glasses Pvt. Ltd who are also the producers of the subject goods. The petitioner and the supporters hold more than 99% shares in total domestic production. There 4th producer of the subject goods in India, namely M/s Brij Foot Care has also now expressly extended its support to the petition. The support letter from M/s Brij Foot Care expressing their support to the petition is supplied to the Authority.
 - iii. The petitioner along with the supporters accounts for 100% of the total domestic production in the country.
 - iv. The petitioner has already certified that there are no imports of the product under consideration by the petitioner or any of its related party within the meaning of Rule 2(b) nor they are related to any of the exporters from the subject country. In view of the aforesaid, the applicant has clear standing to file the petition and also to seek legal protection under the anti-dumping laws.
 - v. Some of the interested parties have contended the standing of the petitioner as Domestic Industry on the ground that the petitioner is a manufacturer of the subject goods for ‘captive consumption’. In support of their contention, they have relied upon the findings of the Authority in the case of Low Ash Metallurgical Coke from Australia and China (2016).
 - vi. The Domestic Industry submitted that the reliance of the interested parties on the decision in Low Ash Metallurgical Coke case is totally misplaced. As per the Domestic Industry, in that case the decision of the Authority to exclude some producers from the purview of Domestic Industry was in view of the fact that the

said producers were only captively transferring their products and their production was not in competition with the imported subject goods. The fact that some part of the production is used captively has never been considered as a ground for not treating a petitioner as an eligible Domestic Industry.

- vii. The Domestic Industry submitted that the interested parties have failed to appreciate that by producing goods for captive consumption also, the Domestic Industry has been able to lower down its overall average costs. As per the Domestic Industry, the improvement in some of the injury parameters is on account of the fact that the Domestic Industry has been able to lower down its cost of production and other costs.
- viii. The Domestic Industry also stated that it has already submitted the details with respect to its captive production which may kindly be verified by the Authority.

Views of the opposing interested parties

13. Following submissions have been made by the other interested parties with regard to standing and scope of domestic industry:
- i. The number of domestic producers of EVA sheets and their representatives are not correctly indicated in the petition, which gives rise to doubts on the accuracy of other information in the petition. In the petition there are 5 producers of the subject goods in India, however the table showing the share of production of Indian producers contains only 4 producers including the petitioner. Share of production appears to be wrongly stated as during period April 14 to March 15, the total share of the 4 companies is only 94% and during period April 16 to March 17, total share of 4 companies is 102% (more than 100%).
 - ii. Doubts on accuracy of information and data, due to deficiency petition should not have passed the scrutiny of the investigating authority.
 - iii. Petitioner has failed to provide the basis or evidence based on which it presumes 70% holding of total domestic production in India. Petitioner has also failed to provide the basis for presuming that there are no other producers of the subject goods in the Indian Market.
 - iv. No clarity, why petition filed on basis of behalf of portion of domestic producers i.e. one domestic producer rather than all of them combined.
 - v. Data of non supporting domestic producer, Brij Foot care, must be carefully scrutinized for source as well as reliability.
 - vi. The applicant is not eligible to be defined as the eligible Domestic Industry since it is captively using its production in view of the decision of the Authority in the case of Low Ash Metallurgical Coke.

Examination of the Authority

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

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

15. The petition has been filed by M/s RenewSys India Private Limited, who is the largest producer of the subject goods in India. The petitioner has also submitted support letters from M/s Vishakha Renewables Pvt. Ltd and M/s Allied Glasses Pvt. Ltd., who are the other producers of the subject goods in India. The applicants have not imported the PUC during the POI nor are they related either to any exporter or producer of the PUC in the subject countries or any importer of the PUC in India. After initiation, the petitioner also submitted the support letter from the fourth domestic producer namely M/s Brij Foot Care. The 5th producer M/s Lucent Clean Energy Limited has started production after the POI and is therefore not relevant for this investigation.

S. No.	Name of the Producer in India	Production in MT during POI	Share
1	Renewsys India Private Limited	2,945	70.9%
2	Vishakha Renewables Pvt Ltd.	867	20.9%
3	Allied Glasses Pvt Ltd	325	7.8%
4	Brij Foot Care	14	0.4%
	Total	4,151	100%

16. After examination of data and information, the Authority holds that the petitioners have clear standing to file the present petition when examined in terms of Rule 5(3) of the Rules. The share of petitioner alone constitutes major proportion of the total domestic production. Further, the petitioner along with the supporters accounts for 100% of the total domestic production in the country.

17. As regards the issue of captive consumption by the Domestic Industry, the Authority notes that the issue was examined in detail and facts/ information with respect to the captive consumption of the applicant was verified. It is noted that the petitioner’s captive consumption is almost insignificant in comparison to their market sales. The Authority further notes that the reliance of the interested parties on the case of Low Ash Metallurgical Coke is misplaced in view of the fact that the decision of the Authority in that case was with respect to the producers who were involved only in the captive production of the goods and whose production was not in competition with the imported subject goods.

18. The Authority has considered the submission of the interested parties regarding error in the Domestic Industry petition with respect to the total share of the domestic producers in Indian production. The Authority has revised such figures on the basis of the information received and duly verified by the Authority.
19. In view of the above, after detailed examination the Authority has decided that the petitioner companies constitute eligible domestic industry in terms of Rule 2(b). Further, the petitioner companies also have the standing in terms of Rule 5(3) to file the present petition.

D. ISSUES RELATING TO CONFIDENTIALITY

Views of the Domestic industry

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

Views of the opposing interested parties

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

- i. The petition suffers from excessive confidentiality. The petition provides absolutely no information with respect to volume related information also.
- ii. The domestic industry has claimed and has been allowed excessive confidentiality in the sense that they have not made available their annual report in the public file.
- iii. The Domestic Industry has also not provided sufficient details of their costing.

Examination by the Authority

22. The Authority made available non-confidential version of the information provided by various interested parties to all interested parties through the public file containing non-confidential version of evidences submitted by various interested parties for inspection as per Rule 6(7).
23. Information provided by the interested parties on confidential basis was examined with regard to the justification of their claims and the specific provisions of law as interpreted by the Hon'ble Supreme Court. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis. The Authority made available the non-confidential version of the evidences submitted by various interested parties in the form of public file.

E. MISCELLANEOUS ISSUES

Views of the Domestic Industry

24. The submissions made by domestic industry are as follows:
 - i. The claims of the interested parties regarding demand-supply gap in the country is completely baseless. The total demand of the subject goods in India is of 10,396 MT. The Domestic Industry alone has got a capacity of 6267 MT. Further, the other Indian producers, Vishakha Renewable, Allied Glass and Brij Foot care has got capacity of 6267 MT, 3133 MT and 1050 MT respectively. In addition to that, another domestic producer, M/s Lucent Clean Energy Ltd. has also begun its operations in December 2017. Clearly, Indian producers have the capacity to meet the total demand in the country.
 - ii. The apprehensions raised by the interested parties with regard to the computation of normal value and export price are baseless. The interested parties have failed to appreciate that there is limited information available with the petitioner at the time of initiation of the investigation.

- iii. The Domestic Industry made attempts to get information with respect to the prevailing prices of the subject goods in the concerned countries prior to the filing of the present case, the proofs of which were provided in the application. However, despite sincere attempts, Domestic Industry was not able to get the prices of the subject goods in the subject countries.

Views of the opposing interested parties

25. The various submissions made by the producers/ exporters/ importers/ other interested parties during the course of the present investigation with regard to other miscellaneous issues and considered relevant by the Authority are as follows:
 - i. The imports in the present case are the result of demand-supply gap in the country. The petition shows that the capacity set up by the petitioner is to the tune of 6267 MT and the demand in India has been 10396 MT during the POI.
 - ii. Some of the interested parties have raised issues regarding the correctness of the information contained in the petition. They submitted that certain information such as the share of the petitioner in total domestic production, normal value, export price does not seem to be accurate and does not meet the evidentiary and legal standards of Article 5 of the Anti-dumping Agreement.
 - iii. It was submitted by some Chinese exporters that the cumulation of data of the subject country China PR along with the other subject countries, i.e., Malaysia, Saudi Arabia, South Korea and Thailand is completely inappropriate in the facts of the present case. In this regard, the exporters submitted that the conditions of competition amongst the imports from China PR and the imports from the other subject countries are completely incomparable and must not be cumulated.

Examination by the Authority

26. As regards the claims of the interested parties with respect to the demand-supply gap in the country, the Authority notes that as submitted by the Domestic Industry and the support letters filed by the other domestic producers, it is clear that there is sufficient capacity in the country to cater to the total demand in the country. In any case, the purpose of the anti-dumping duty is not to prohibit imports but to merely ensure that the imports are coming into India at fair prices and a level playing field is provided to the domestic producers. Further, even if the anti-dumping duties are imposed, imports can still come provided they are fairly priced.
27. The claims of the interested parties with respect to the correctness of the information in the petition was examined in detail and the Authority notes that the information considered for the purpose of this finding has been duly verified by the Authority. As

regards the normal value and export price information contained in the petition, the Authority finds merit in the submission of the Domestic Industry that there is limited information available with the petitioner at the time of initiation of the investigation. The Domestic Industry has been able to demonstrate that they have made attempts to get the prevailing prices in the concerned countries. Moreover, the normal value and export price in the present finding is computed using the actual data filed by the responding exporters of the concerned countries, wherever applicable.

28. As regards the claim of the interested parties regarding the cumulative assessment of data of China PR with other subject countries, the Authority notes that cumulative assessment of the effects of the imports is appropriate in light of the conditions of competition between the imported products and the conditions of competition between the imported products and the like domestic products. It is noted that none of the interested parties have provided any evidence to indicate that the conditions of competition between Chinese imports and the like domestic products and the conditions of competition between other subject countries imports and the like domestic products were in any way different.

F. NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN

NORMAL VALUE

Views of the Domestic industry

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

- i. In terms of Para 8 of Annexure I of the anti-dumping rules, China has to be presumed to be a Non-market Economy Country unless the concerned firms/ producers/ exporters are able to rebut the said presumption based on the criteria spelt out in Para 8(3). This is also in line with the position taken by the Authority in previous cases, and by investigating authorities in other countries. Chinese producers' cost and price cannot be relied upon for determination of normal value. The domestic industry respectfully submit that China PR should be treated as non-market economy country for the following reasons:
 - a) None of the Chinese producers have claimed the MET treatment and have not filled the requisite questionnaire for MET treatment. Market economy status cannot be given unless the responding Chinese exporters establish that the prices of major inputs substantially reflect market values.
 - b) Market economy treatment must be rejected in such situations where Chinese exporters are unable to establish that their books are consistent with International Accounting Standards (IAS). The requirement on insisting compliance with International Accounting Standards is to ensure accuracy and adequacy of revenues

and expenses, assets and liabilities expressed in the annual report.

- c) Market economy status cannot be granted unless the responding Chinese exporters pass the test in respect of each and every parameter laid down under the rules. Contrarily, while examining material injury existence of a single parameter is considered sufficient to establish such injury. In other words, where one parameter is sufficient to establish existence of injury, failure to pass one single parameter is sufficient to reject the claim of market economy status.
- d) It is not for the Authority to establish that the responding companies are operating under market economy environment and are entitled for market economy treatment. But it is for the responding Chinese exporters to establish that they are operating under market economy conditions.
- e) Market economy status cannot be granted unless the responding company and its group as a whole make the claim. If one or more companies forming part of the group have not filed the response, market economy status must be rejected.
- f) It has been submitted that the normal value for China in such a case can be determined only in accordance with the provisions of para 7 of the Annexure I to Anti-dumping Rules without invoking proviso to 8(2) in view of the aforementioned facts and circumstances.
- g) The normal value in China can thus be determined on the basis of (a) import price from third country into India, (b) selling price in India, and (b) cost of production in India, duly adjusted, including selling, general and administrative expenses and profit. It is also submitted that since these options for determination of normal value are available, the Designated Authority may not kindly consider "any other basis" because this is required to be applied only when the basis listed under the law cannot be applied.
- h) Para 8(2) of Annexure-I leaves no choice for the Designated Authority but to presume China to be a Non-Market Economy country. However, the same is open to rebuttal by the Chinese firms under the provision of Para 8(3).
- i) The Designated Authority is a creation of the statute and has to perform its obligations and exercise the powers as specifically assigned to it under the specific provisions of the statute. Therefore, unless the provisions of Para 8 are amended, it is imperative for the Designated Authority to operate as per the procedure mentioned in Para 8 and presume China as a Non-Market Economy country.
- j) The significant extent of continued government intervention in certain important sectors of the Chinese economy warrants maintaining China's designation as a Non-Market Economy country. It is a known fact that China's economy is

controlled by the state forces and there is a significant interference and control of the state machinery in the country's economy. The grant of Market Economy status under China's accession to the WTO is not automated but contingent upon China's compliance with the preconditions mentioned in the Accession Protocol.

- k) As for Saudi-Arabia, the responding producer/exporter has admitted that they have not sold the Product under Consideration in their domestic market in Saudi Arabia. Therefore, the normal value of the said exporter has to be constructed.

Views of the opposing interested parties

30. The concerned responding producers/ exporters have objected to the construction of the normal value in the petition by the petitioner using its own costs as the basis, by taking the price of the major raw materials and utilities duly adjusting the same for selling, general and administrative expenses.

Examination by the Authority

31. The Authority sent questionnaires to the known exporters from the subject countries, advising them to provide information in the form and manner prescribed. Several producers and exporters from the subject countries have filed the prescribed questionnaire responses.
32. It was alleged by the domestic industry in their application that Chinese companies continue to operate on non-market economic conditions as there exist significant government intervention in various activities including exchange rate management. Based on the claims of the domestic industry, the Authority advised the producers/exporters in China to respond to the notice of initiation and provide information relevant to determination of their market economy status to demonstrate that they are operating under market economy conditions. The Authority sent copies of the supplementary questionnaire to all the known producers/ exporters from China for providing sufficient information in this regard. The Authority also requested Government of China to advise the producers/ exporters in their country to provide all the relevant information.
33. As per Paragraph 8 of Annexure I of the Anti-Dumping Rules, the presumption of a non-market economy can be rebutted, if the exporter(s) from China PR provide information and sufficient evidence on the basis of the criteria specified in subparagraph (3) of Paragraph 8 and establish the facts to the contrary. The cooperating exporters/ producers of the subject goods from People's Republic of China are required to furnish necessary information/ sufficient evidence as mentioned in subparagraph (3) of paragraph 8 in response to the supplementary questionnaire to enable the Designated Authority to consider the following criteria as to whether:

- i. The decisions of concerned firms in China PR regarding prices, costs and inputs, including raw materials, cost of technology and labour, output, sales and investment are made in response to market signals reflecting supply and demand and without significant State interference in this regard, and whether costs of major inputs substantially reflect market values;
 - ii. The production costs and financial situation of such firms are subject to significant distortions carried over from the former non-market economy system, in particular in relation to depreciation of assets, other write-offs, barter trade and payment via compensation of debts;
 - iii. Such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms and
 - iv. The exchange rate conversions are carried out at the market rate.
34. The Authority takes cognizance of the fact that none of the producer/ exporter from China PR have filed the supplementary questionnaire response wherein they were sought to rebut the presumptions as mentioned in para 8 of Annexure 1 of the Anti-dumping Rules. Therefore, the Authority holds that the responding Chinese producers/ exporters have failed to provide sufficient evidence to establish that they are operating under market economy conditions. Under the circumstances, the Authority has to proceed in accordance with Para 7 of Annexure - I to the Rules in this regard.
35. Further, the Authority notes that the responding producer from Saudi Arabia has not sold the Product under Consideration in their domestic market and information pertaining to exports to third countries have not been furnished. However, the responding producer from Saudi Arabia has stated that the production of PUC took place for only few days of the POI and that its cost of production does not reflect the commercial costs to produce the PUC and therefore requested the Authority to construct its normal value as per the other alternative methods of construction of normal value available under the Rules. After examination and due deliberation, the Authority proceeds for construction of normal value for the said producer in accordance with the Rules.
36. None of the producers and exporters from Malaysia have filed questionnaire response. Therefore, the Authority has decided to proceed to construct its normal value and export price in accordance with the Rules.
37. The Authority notes that for determination of normal value based on third country cost and prices, the complete and exhaustive data on domestic sales or third country export sales, as well as cost of production and cooperation of such producers in third country is required. No such information with regard to prices and costs prevalent in these markets have been provided either by the applicant or by the responding producers/ exporters, nor any publicly available information could be accessed, nor

the responding producers/ exporters have made any claim with regard to an appropriate market economy third country at this stage. Therefore, for the purpose of determination of Normal Value, the Authority proceeds to construct the normal value, wherever warranted, based on best available fact in accordance with the Rules.

Normal Value for China PR, Saudi Arabia And Malaysia

38. The Authority has constructed the Normal Value for China PR, Saudi Arabia and Malaysia based on the facts available in terms of Rule 6(8) to the AD Rules. Accordingly, the Normal Value of the product under consideration is determined based on cost of production of domestic industry for PUC, however taking into consideration the international prices of major raw material and duly adjusted to include selling, general & administrative costs and profits. Further, the constructed normal value has been duly adjusted with weighted average conversion factor (square meter to MT) based on the export data of the responding exporters. The constructed normal value is as mentioned in the dumping margin table below.

Normal Value for Thailand

M/s TPI All Seasons Co. Ltd. Thailand

39. The questionnaire response filed by the exporter has been examined. The same is found to be complete and in order. The cost of production was determined on the basis of verified information of the producer and domestic sale transactions were examined. The domestic sales were examined and found that only 33% of the sales are profit-making. Accordingly, only such profit making transactions were considered for calculating its normal value. The sales were given adjustments as claimed by the producer for transportation, credit cost, insurance after verification. The normal value is determined as mentioned in the dumping margin table below.

EXPORT PRICE

I. CHINA PR

M/s Changzhou Bbter Century Film Technologies Co., Ltd., China

40. M/s Changzhou Bbter Century Film Technologies Co., Ltd. has filed Exporters Questionnaire Response claiming themselves a producer and an exporter of subject goods from China PR. From the information filed by the said exporter, it is noted that they have exported a small quantity of the subject goods to India directly during

the POI and majority has been exported through related exporters/ traders, namely, M/s Bbetter International Trading Co., Ltd., China.

41. The Authority examined the Exporters Questionnaire response and noted that response has been filed for all the quantity exported to India directly or indirectly. The exports details furnished by producer have been considered for determining ex-factory export price for grant of individual dumping and injury margin. The exporter has claimed adjustment on account of inland freight, ocean freight, overseas freight, bank charges, credit cost and the same have been accepted after necessary verification. The NEP has also been adjusted for SGA and Profit of the related exporter. The constructed normal value and weighted average net export price is as mentioned in the dumping margin table below.

M/s. Hangzhou First Applied Material Co., China

42. M/s Hangzhou First Applied Material Co. Ltd., China PR has filed Exporters Questionnaire Response claiming themselves a producer and an exporter of subject goods from China PR. The examination of the response shows that they have another related producer in the group M/s Suzhou First PV Material Co., Ltd who has also filed detailed questionnaire response. From the information filed by the said exporter, it is noted that they have sold subject goods in domestic market directly and through their related entity M/s Suzhou First PV Material Co., Ltd. Further, M/s Hangzhou First Applied Material Co. Ltd has exported a small quantity of the subject goods to India directly and majority through unrelated entity, namely, M/s First Global Business Co., Ltd., China.

43. The Authority examined the Exporters Questionnaire response and noted response has been filed for all the quantity exported to India directly or indirectly. The exports details furnished by producer have been considered for determining ex-factory export price for grant of individual dumping and injury margin. The exporter has claimed adjustment on account of inland freight, ocean freight, overseas freight, bank charges, credit and the same have been accepted after necessary verification. The constructed normal value and weighted average net export price is as mentioned in the dumping margin table below.

M/s Changzhou Sveck PV New Material Co. Ltd.,

44. M/s Changzhou Sveck PV New Material Co. Ltd., has filed Exporters Questionnaire Response claiming themselves a producer and an exporter of subject goods from China PR. From the information filed, they have directly exported the subject goods to India during the POI.
45. The Authority examined the Exporters Questionnaire response and noted that the response has been filed for all the quantity exported to India. The exports details

furnished by producer have been considered for determining ex-factory export price for grant of individual dumping and injury margin. The exporter has claimed adjustment on account of inland freight, ocean freight, overseas freight, bank charges, credit and the same have been accepted after necessary verification. The constructed normal value and weighted average net export price is as mentioned in the dumping margin table below.

II. SAUDI ARABIA

M/s Saudi Specialized Co. Ltd.

46. M/s Saudi Specialized Co. Ltd. has filed Exporters Questionnaire Response claiming themselves a producer and exporter of subject goods from Saudi Arabia. From the information filed, they have directly exported the subject goods to India during the POI.
47. The Authority examined the Exporters Questionnaire response and noted that the response has been filed for all the quantity exported to India. The exports details furnished by producer have been considered for determining ex-factory export price for grant of individual dumping and injury margin. The exporter has claimed adjustment on account of inland freight, ocean freight, overseas freight, bank charges, credit cost and the same have been accepted after necessary verification. The constructed normal value and weighted average net export price is as mentioned in the dumping margin table below.

III. MALAYSIA

48. The Authority notes that none of the producers/ exporters from Malaysia have participated in the present case. In view thereof, the Authority decides to construct their net export price from DGCI&S import data.

IV. THAILAND

M/s TPI All Seasons Co. Ltd.

49. M/s TPI All Seasons Co. Ltd. has filed Exporters Questionnaire Response claiming themselves a producer and exporter of subject goods from Thailand. From the information filed, they have directly exported the subject goods to India during the POI.
50. The Authority examined the Exporters Questionnaire response and noted that the response has been filed for all the quantity exported to India. The exports details furnished by producer have been considered for determining ex-factory export price for grant of individual dumping and injury margin. The exporter has claimed adjustment on account of inland freight, ocean freight, overseas freight, bank charges,

credit and the same have been accepted after necessary verification. The constructed normal value and weighted average net export price is as mentioned in the dumping margin table below.

DUMPING MARGIN

51. The following dumping margins for subject goods has been determined by comparing normal value (or the constructed normal value wherever the actual normal value is not available/ acceptable) and net export price at ex-factory level for the subject goods:

SN.	Producer	NV/CNV	NEP	Dumping Margin		
		USD/MT	USD/MT	USD/MT	%	Range
CHINA						
1	M/s Changzhou Bbetter Century film Technologies Co. Ltd.	***	***	***	***	15-25
2	M/s Hangzhou First Applied Material Co. Ltd. / M/s Suzhou First PV Material Co., Ltd	***	***	***	***	25-35
3	M/s Changzhou Sveck PV New Material Co. Ltd.	***	***	***	***	25-35
4	Any other	***	***	***	***	45-55
SAUDI ARABIA						
5	M/s Saudi Specialized Products Company.	***	***	***	***	75-85
6	Any other	***	***	***	***	95-105
THAILAND						
6	M/s TPI all seasons Co. Ltd.	***	***	***	***	55-65
7	Any other	***	***	***	***	85-95
MALAYSIA						
7	Any	2782	1829	953	52	45-55

52. It is seen that the dumping margin for the subject goods is above de-minimus from all the above mentioned subject countries.

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

Views of the Domestic Industry

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

- i. Imports of the product under consideration have shown increase over the years with a significant increase in POI.
- ii. Market share of subject countries in demand is significant. Market share of the domestic industry has decreased significantly in the POI as compared to the base year. The same is due to significant imports from subject countries;
- iii. Domestic industry prices, reflect the effect of the prices that are being offered by the importers in the domestic market;
- iv. The price underselling, price undercutting is positive and substantial. Further, the Domestic Industry is suffering from price depression as they are not able to increase its prices to reasonable terms. The main reason for this is high volume of imports from subject countries that too at dumped and injurious prices.
- v. Performance of the domestic industry has steeply deteriorated in terms of profits, return on investments and cash profits to a very significant extent.
- vi. The decline in profitability of the domestic industry was due to significant increase in the import volume at non-remunerative prices from subject countries.
- vii. The decrease in selling price was more than the decrease in cost of production and thus the dumped imports are creating price suppression effect on the domestic industry.
- viii. The domestic industry has suffered material injury in connection with dumping of subject goods from subject countries. Further, the domestic industry is threatened with continued injury, should the present condition continue

Views of the opposing interested parties

54. The following are the injury related submissions made by the opposing interested parties during the course of the present investigation and considered relevant by the Authority :

- i. The Domestic Industry is not suffering any injury and has improved throughout the injury investigation period;
- ii. From the data furnished by the petitioners, they have failed to show any injury on account of allegedly dumped imports.
- iii. The petitioners have adopted the method of cumulative assessment of injury in the present case, which in present circumstances is inappropriate.
- iv. The evidence submitted by applicants could not support a “significant” increase of imports either in absolute terms or in relative terms.
- v. Any injury allegedly suffered by the domestic industry has been caused by factors other than imports from the subject countries
- vi. The injury to the Domestic Industry is on account of the fact that substantial losses were acquired by the petitioner in 2015 due to acquisition of SSPL, which are

substantial and impacted the petitioners parameters to an extent that profit loss figures had to be accommodated to reflect the same.

Examination by the Authority

55. The impact of the dumped imports on the domestic industry is to be examined in terms of Para (iii) and (iv) of Annexure-II of the AD Rules.
56. The injury analysis made by the Authority hereunder addresses the various submissions made by the interested parties during the course of the present investigations and considered relevant by the Authority.
57. The Authority computed the non-injurious price in accordance with Annexure III to the Anti-dumping Rules and the established practices of the DGAD.
58. For the examination of the impact of imports on the domestic industry in India, the Authority has considered such indices having a bearing on the state of the industry as production, capacity utilization, sales quantum, stock, profitability, net sales realization, the magnitude and margin of dumping etc. in accordance with Annexure II of the Rules supra. Further, the imports from Korea RP relating to EVA resin have not been taken into consideration for the purposes of injury analyses because Korea RP has been excluded from the scope of subject countries on account of de-minimus imports.

I. Assessment of Demand

59. For this purpose, demand or apparent consumption of the subject goods in India is taken as the sum of domestic sales of all Indian producers and imports from all sources as per DGCIS data. The examination of the import data indicated that some of the transactions were in units other than Kg which were duly converted into MT by applying the conversion factor (duly verified) used for the domestic industry.

S. No.	Year	Unit	2014-15	2015-16	2016-17	POI
1	Imports from Subject countries	MT	594	1,025	4,674	6,367
2	Imports from other countries	MT	136	651	216	86
3 (1+2)	Total Imports	MT	730	1676	4890	6453
4	Sales – Domestic Industry	MT	1,702	2,600	2,682	2,671
5	Sales – Other Indian Producers	MT	79	137	238	1,095
6 (4+5)	Domestic sales of Indian Producers	MT	1,781	2,737	2,920	3,766
7	Captive consumption – Domestic Industry	MT	0	73	201	332
8 (3+6+7)	Total Demand	MT	2,511	4,486	8,011	10,551

9	Production - Domestic Industry	MT	1,734	3,168	2,901	2,945
10 (1÷8)	% Share of Subject Countries in Demand	%	24%	23%	58%	60%
11 (1÷9)	% share of Subject countries in relation to Production of Domestic Industry	%	34%	32%	161%	216%

60. The Authority notes that the total demand in India has substantively increased consistently over the entire injury period including POI. The Authority also notes that the imports from subject countries have captured the major proportion of the demand so increased in the country. This is evident from the fact that the share of the subject countries in total demand has increased from 24% in 2014-15 to 60% in the POI.

II. Volume Effect of Dumped Imports

Import Volume and Market Share in Imports

61. With regard to the volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India. For the purpose of injury analysis, the Authority has relied on the import data procured from DGCI&S. The volume of imports of the subject goods from the subject countries has been analysed as under:

Sr No.	Year	Unit	2014-15	2015-16	2016-17	POI
1	China PR	MT	386	634	3,807	5,434
2	Malaysia	MT	73	125	262	204
3	Saudi Arabia	MT	-	86	317	412
4	Thailand	MT	135	179	288	317
5 (1 to 4)	Imports from Subject Countries	MT	594	1,024	4,674	6,367
6	Trend	Trend	100	172	787	1,072
7	Imports from Other Countries	MT	136	651	216	86
8 (5+7)	Total Imports	MT	730	1675	4890	6453
9 (5÷8)	% share of Subject countries in Imports	%	81%	61%	96%	99%

62. The share of imports from subject countries in total imports is around 99% during the POI. It is noted from the above tables that imports of the subject goods from the subject countries have increased significantly in absolute terms as well as in relation to production and consumption in POI as compared to the previous years.

III. Price Effect of Dumped Imports on the Domestic Industry

63. With regard to the effect of the dumped imports on prices, it is required to be analyzed whether there has been a significant price undercutting by the alleged dumped imports

as compared to the price of the like products in India, or whether the effect of such imports is otherwise to depress prices or prevent price increases, which otherwise would have occurred in the normal course. The impact on the prices of the domestic industry on account of the dumped imports from subject countries has been examined with reference to the price undercutting, price underselling, price suppression and price depression, if any.

a. Price Undercutting

64. In order to determine whether the imports are undercutting the prices of the domestic industry in the market, the domestic industry had computed the price undercutting for the POI by comparing landed value of imports with net sales realization of the domestic industry. In view of detailed responses received from the responding producers/ exporter, the Authority has taken the landed value from such responses or DGCI&S data, as available, for computing the price undercutting.

Sr. No.	Particulars	Unit	China	Malaysia	Saudi Arabia	Thailand
1	Imports from Subject country	MT	5434	204	412	317
2	Landed price of imports	Rs/MT	***	***	***	***
3	Net Sales Realisation of domestic sales by DI	Rs/MT	***	***	***	***
4 (3-2)	Price undercutting	Rs/MT	***	***	***	***
5 (4÷2)	Price undercutting	%	***	***	***	***
6	Price undercutting	Range	5-15	15-25	20-30	5-15

65. The above table clearly shows that the landed value of imports from each of the subject country is lower than the net selling price of domestic industry in India and hence there is significant positive price undercutting.

b. Price Underselling

66. Price underselling suffered by the domestic industry has been examined by comparison of landed price of imports with NIP.

Sr No.	Particulars	Unit	China	Malaysia	Saudi Arabia	Thailand
1	Imports from Subject country	MT	5,434	204	412	317
2	Landed price of imports	Rs/MT	***	***	***	***
3	Non-Injurious Price	Rs/MT	***	***	***	***
4 (3-2)	Price underselling	Rs/MT	***	***	***	***
5 (4÷2)	Price underselling	%	***	***	***	***
6	Price underselling	Range	35-45	55-65	70-80	45-55

67. It is noted that the imports from subject countries are landing at prices substantially lower than the NIP and hence there is significant positive underselling.

c. Price Suppression and Depression

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

Sr No.	Particulars	Unit	2014-15	2015-16	2016-17	POI
1	Landed value from China	Rs/MT	***	***	***	***
2	Landed value from Malaysia	Rs/MT	***	***	***	***
3	Landed value from Saudi Arabia	Rs/MT	***	***	***	***
4	Landed value from Thailand	Rs/MT	***	***	***	***
5	Landed value from Subject Countries	Rs/MT	***	***	***	***
6	Trend	Trend	100	99	91	76
7	Net Sales Realisation	Rs/MT	***	***	***	***
8	Trend	Trend	100	97	88	84
9	Cost of Sales	Rs/MT	***	***	***	***
10	Trend	Trend	100	89	90	79

69. It is seen that the cost of sales and net sales realization of Domestic Industry for subject goods is decreasing during the POI as compared to the base year and the preceding years. However, the net sales realization has remained below the cost of sales during the entire injury period including the POI. It is noted that the landed value of the imports of the subject goods during the POI has been much lower than the NSR of the domestic industry. The domestic industry has not been able to recover the cost of sales of the subject goods indicating strong effects of suppression and depression in prices.

IV. Economic Parameters of the Domestic Industry

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

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

a. Market share:

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

S. No.	Particulars	Unit	2014-15	2015-16	2016-17	POI
1	Domestic Sales-Applicants	MT	1,702	2,600	2,682	2,671
2	Captive consumption - Applicants		0	73	201	332
3	Domestic Sales-Others	MT	79	137	238	1,095
4	Imports from Subject Countries	MT	594	1,025	4,674	6,367
5	Imports from Other Countries	MT	136	651	216	86
6 (1 to 5)	Total Demand	MT	2,511	4,486	8,011	10,551
7	Market share in Demand					
7a	Of domestic industry Sales incl. captive	%	68%	60%	36%	28%
7b	Of Indian producers	%	71%	63%	39%	39%
7c	Of Imports from Subject countries	%	24%	23%	59%	61%
7d	Of Imports from Other Countries	%	5%	14%	2%	1%

73. The imports of the subject goods from subject countries have increased substantially from base year to POI in absolute and relative terms. The total demand in India has shown a consistent and significant increase, however, the market share of Domestic Industry in total demand has decreased significantly from the base year to the POI. At the same time, the market share of the imports has seen a significant increase during the same period. The increase in demand in the country has been largely captured by increased imports as against the Indian producers.

b. Profitability:

74. The Domestic Industry stated that cost of sales has declined in the POI, as are the selling prices. It is seen that the selling price saw a substantial downward trend and the same consistently remained below the cost of sales of the Domestic Industry resulting into continued losses during the entire injury period. The Domestic Industry has also submitted that they were forced to match the post landing discounted prices offered by the exporters.

Particulars	Unit	2014-15	2015-16	2016-17	POI
Cost of sales	Rs./MT	***	***	***	***

Trend	Trend	100	89	90	79
Selling price	Rs./MT	***	***	***	***
Trend	Trend	100	97	88	84
Profit/Loss	Rs./MT	***	***	***	***
Trend	Trend	(100)	(27)	(113)	(39)

75. The information submitted by domestic industry indicates that there are continued losses during the entire injury period including the POI.

c. Return on Investment:

76. The domestic industry has furnished information which shows that the return on investment has been negative during the entire injury period including the POI:

Particulars	Unit	2014-15	2015-16	2016-17	POI
ROI	%	***	***	***	***
Trend	Indexed	(100)	(10)	(265)	(94)

d. Production and Capacity Utilization:

77. It has been stated that the production of the Domestic Industry has increased in absolute terms during the POI as compared to the base year and the preceding year. The domestic industry has increased the installed capacity during 2015-16 with a view to take advantage of the estimated increase in demand of the subject goods, however, they have not been able to capture the demand fully or increase their capacity utilization. It is largely due to the fact that significant imports are taking place as noted in the earlier paragraphs.

Sr. No.	Particulars	Unit	2014-15	2015-16	2016-17	POI
1	Capacity	MT	3,133	6,129	6,267	6,267
2	Total Production	MT	1,734	3,168	2,901	2,945
3 (2÷1)	Capacity Utilization	%	55%	52%	46%	47%

e. Sales Volumes:

78. It is noted that the sales volume of the Domestic Industry has increased in the POI as compared to the base year, however it has more or less remained stagnant from 2015-16 onwards, inspite of significant increase in demand during the same period.

Particulars	Unit	2014-15	2015-16	2016-17	POI
Domestic	MT	1,702	2,600	2,682	2,671
Exports	MT	49	193	176	92

79. The table shows that the domestic industry sales has increased by 57% during the POI over the base year, as against an increase in demand by 319% (as seen from the table relating to demand supra) during the same period. The domestic industry has stated

that most of the increase in demand has been grabbed by the imports from the subject countries which have increased by 972% over the same period.

f. Inventories:

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

Year	2014-2015	2015-2016	2016-2017	POI
Average Inventory (MT)	***	***	***	***
Trend	100	568	670	640

81. From the above, it is noted that the average inventory stocks have increased and presently the stocks with the Domestic Industry are much more than the average industry norm as informed during the verification.

g. Productivity, Employment and Wages:

82. It has been stated that the number of employees engaged by the Domestic Industry remained more or less same in the POI as compared to the base year inspite of significant increase in production during the same period. The domestic industry has claimed that this is because they have to cut the costs to match the prices offered by the dumped imports.

Particulars	Unit	2014-15	2015-16	2016-17	POI
Employees	Number	24	39	36	28
Production per day	MT per day	4.75	8.68	7.95	8.07
Wages	Rs.	***	***	***	***
Trend	Trend	100	232	250	260

83. It is noted from the above table that the productivity per employee has increased during the POI as compared to the base year which indicates better efficiencies. The Domestic Industry has stated that there has been increase in wages paid to the employees but that is on account of normal hike in wages over the period and hiring of superior skilled employees.

h. Magnitude of Dumping and Dumping Margin:

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

i. Growth:

85. There was increase in production and sales in absolute terms primarily on account of significant increase in the demand of the subject goods. However, the growth when seen on year to year basis, shows negative trend with respect to most of the injury factors including profits, cash profit as well as ROI. The domestic industry has contended that with increase in demand, the domestic industry had expected growth in profits, comfortable cash flow and increase in return on investments, however, the domestic industry was not able to achieve the same due to the presence of the dumped imports from subject countries at non-remunerative prices.

j. Factors Affecting Domestic Price

86. The import prices are directly affecting the prices of the domestic industry in the domestic market. It is noted that the landed value of subject goods from subject countries are below non-injurious price of the domestic industry. Further, landed value from subject countries had suppressed and depressed the prices of the Domestic Industry leading to financial losses to them. The imports of the subject goods from countries other than subject countries are negligible in quantities and not injuring the domestic industry. Demand for the product is showing a significantly increasing trend and, therefore, could not have been a factor responsible for price depression and suppression faced by the domestic industry. In view thereof, the alleged dumped imports are interfering with the price structure of the domestic industry.

H. MAGNITUDE OF INJURY AND INJURY MARGIN

87. The non-injurious price of the subject goods produced by the domestic industry as determined by the Authority in terms of Annexure III to the AD Rules has been compared with the landed value of the imports from the subject countries for determination of injury margin during the POI and the injury margin so worked out is as under:

SN	Producer	Landed Value	NIP	Injury Margin		
		USD/MT	USD/MT	USD/MT	%	Range
CHINA						
1	M/s Changzhou Bbetter Century film Technologies Co. Ltd.	***	***	***	***	15-25
2	Hangzhou First Applied Material Co. Ltd. / M/s Suzhou First PV Material Co Ltd	***	***	***	***	35-45

SN	Producer	Landed Value	NIP	Injury Margin		
		USD/MT	USD/MT	USD/MT	%	Range
3	Changzhou Sveck PV New Material Co. Ltd.	***	***	***	***	35-45
4	Any Other	***	***	***	***	35-45
SAUDI ARABIA						
5	Saudi Specialized Products Company.	***	***	***	***	75-85
6	Any other	***	***	***	***	95-105
THAILAND						
7	TPI all seasons Co. Ltd.	***	***	***	***	45-55
8	Any other	***	***	***	***	75-85
MALAYSIA						
9	Any	***	***	***	***	55-65

I. NON-ATTRIBUTION ANALYSIS

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

a. Volume and prices of imports from third countries

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

b. Contraction in demand:

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

c. Changes in the pattern of consumption:

91. The pattern of consumption with regard to the product under consideration has not undergone material change and therefore could not have been the cause for the injury suffered by the domestic industry.

d. Trade restrictive practices of and competition between the foreign and domestic producers:

92. The Authority notes that there is no trade restrictive practice, which could have contributed to the injury to the domestic industry.

e. Developments in technology:

93. The Authority also notes that technology for production of the product has not undergone any material change. Developments in technology are, therefore, not a factor of injury to the domestic industry.

f. Export performance:

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

g. Performance of other products being produced and sold by the domestic industry:

95. Injury to the domestic industry has been analysed on account of product under consideration only. Therefore, performance of other products being produced and sold by the domestic industry has not affected the present injury analysis.

h. Inter-se competition between the Indian producers:

96. The other domestic producers in India have also not been able to capture the market to their full potential and there is no injury on account of inter-se competition.

J. CAUSAL LINK

97. The Authority examined whether injury to the domestic industry is due to dumped imports. The following factors establishing causal link are relevant for the determination:

- i. Volume of imports from subject countries have increased exponentially throughout the injury investigation period including POI.

- ii. There has been a continuous decline in the import prices throughout the injury investigation period including POI. The decline in import prices has led to significant price depression in the market.
- iii. The market share of the Domestic Industry has decreased from 68% in the base year to 28% during the period of investigation. At the same time, the market share of imports from the subject countries increased from 24% in the base year to 60% in the period of investigation.
- iv. The landed price of imports is significantly below the non-injurious price/fair price of the domestic industry and there is significant price underselling due to low priced dumped imports coming in India;
- v. There has been deterioration in profits which resulted in financial losses, decline in cash profits and negative profit before interest and return on capital employed
- vi. The profitability and return on capital employed have been negative throughout the injury period. This is because of the subject imports being made at dumped prices.
- vii. The producers in subject country reduced their prices in order to retain their volume and market share in the country. Resultantly, the domestic industry was forced to reduce the prices in order to sell its production.
- viii. The non-attribution analysis in the above para clearly establishes that there are no other external or otherwise reasons for the injury to the domestic industry.

K. POST DISCLOSURE COMMENTS

Views of the Domestic Industry

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

- iv. The response of the Chinese exporter M/s Changzhou Bbetter Century Film Technologies Co., Ltd. should be rejected as the group company of the said Chinese exporter is also engaged in production and sales of the subject goods and have not filed their questionnaire response. Our market information points out that exports made by them in total exports are miniscule and, therefore, their export price is not reflective of the actual prices and may distort the dumping margin calculated thereon.
- v. The exporter questionnaire response filed by the Saudi Arabian exporter Saudi Specialized Products Company is highly deficient on multiple counts and should be rejected.

- vi. The subject goods from subject countries have been exported to India at highly dumped prices as is clear from the facts in disclosure statement. Further the dumped imports are causing injury to the Domestic Industry as demonstrated by the deterioration in terms of profitability, ROI and Market share of the domestic industry. Further, the price undercutting, underselling as well as price suppression and depression are significantly positive. In fact, we have collected import data for post-POI period and the trend of increased volume of imports of subject goods at dumped price continues.
- vii. The anti-dumping duty should be imposed to protect the domestic industry from the injury caused by dumped imports.

Views of the opposing interested parties

99. The various submissions made by the producers/ exporters/ importers/ other interested parties during the course of the present investigation with regard to other miscellaneous issues and considered relevant by the Authority are as follows:
- iv. China should not be considered as a non-market economy country, in accordance with relevant provisions of the Protocol on China's accession to the WTO.
 - v. The domestic industry is not utilizing their capacities efficiently and effectively. It seems that unviable excess capacities were created in India with no productive usage of the same. Indian producers (petitioner and supporters) are operating at only 25% capacity utilization and producing only 4,151 MT against the total demand of 10,396 MT. Such huge gap in demand and supply has caused increase in the imports of subject goods from subject countries.
 - vi. The economic parameters as analysed in the disclosure statement demonstrate that there is no injury to the Domestic Industry. Further, there is no causal link between the injury to the domestic industry and the imports from subject countries.
 - vii. Although the Authority has conducted the non-attribution analysis to see whether any factor, other than the dumped imports could have contributed to injury to the domestic industry, the Authority failed to analyze the internal factors of the domestic industry, such as deficiencies in their operating strategy and the irrational decisions of increasing production capacity when the capacity utilization was quite low.
 - viii. There is no correlation between landed price of imports and price of the DI. The price of the DI did not decline in line with the decline in landed price. However, the decline in landed price corresponds to decline in cost meaning thereby the decline in landed price of imports were on account of reduction in cost.

- ix. The Director General has allowed a return of 22% on average capital employed for the product under consideration and has assumed the same to be reasonable. It is submitted that the non-injurious price determined by the Director General is highly inflated and is not based on real situation.
- x. The Saudi Arabian Exporter has submitted that during the period of investigation a large quantum of subject goods were sold to the Indian customers for the purpose of sampling, testing and qualification of the product at comparatively lower prices, therefore, an upward adjustment on account of special discounted price may be provided for the shipment made for the said purposes. Further, the Saudi Arabian Exporter has submitted that there is error in computation of ex-factory export price and landed value on account of deduction of discounts and rebates given to Indian customers and have requested for appropriate corrections.
- xi. It has been stated that imposition of anti-dumping duty will impact the competitiveness of the solar module producers who are already paying duty on another component called toughened glass. The Authority is requested to appropriately consider the larger public interest and not impose duties on PUC..

Examination by the Authority

100. As regards the claim of the Domestic Industry that the response of exporters M/s Changzhou Bbetter Century Film Technologies Co., Ltd., China PR and M/s Saudi Specialized Products Company, Saudi Arabia, the Authority notes that the responses of the said exporters have been examined in detail and found sufficient.
101. As regards the contention of the Domestic Industry that dumping from the subject countries has intensified in the post POI period, the Authority notes that the purview of the present investigation is limited to the facts and data concerning the injury investigation period and the POI only.
102. As regards the claims of the interested parties with respect to the market economy treatment to China, the Authority notes that additional questionnaire was sent to the Chinese producers and Embassy of China wherein they were asked to rebut the claim of the Domestic Industry that Chinese producers continue to operate under non-market economy conditions. However, none of the responding producers from China have filed the said questionnaire to rebut the said claim of the Domestic Industry. Such being the case, the Authority was constrained to treat China PR as operating under non-market economy conditions and proceed on facts available basis in terms of Para 7 of Annexure I to the Rules.
103. As regards the claims of the opposing interested parties with respect to lower utilization of the capacities by the Domestic Industry, the Authority notes that it is

the contention of the Domestic Industry that they are not able to operate at optimum capacities due to the presence of dumped imports from subject countries at substantially lower prices.

104. As regards the claims of the opposing interested parties regarding injury and causal link, the Authority notes that the said issues have already been dealt with in detail in relevant paragraphs above.
105. With respect to the arguments of the interested parties regarding 22% return on capital employed, the Authority notes that the determination of NIP has been done in terms of Annexure II to the Rules and as per the established practices of the Directorate.
106. As regards the argument of the Saudi Arabian exporter regarding an upward adjustment for the purpose of product sold for sampling, testing and qualification purposes, the Authority notes that there is no basis in law for providing such adjustment. Further, there is no evidence on record to substantiate, beyond doubt that the said products were specifically sold for sampling, testing or qualification purposes. However, the calculation errors as pointed out have been duly modified as necessary.
107. The submission regarding the impact of duties on downstream industry was examined in detail. It is clear that the availability of the subject goods will not be hampered and comparing the cost of EVA sheet with the cost of the solar module, it can be inferred that the impact of any duties to be imposed on EVA sheets will be minimal for the solar module manufacturers and it will create a level playing field for the domestic producers of EVA sheets for solar modules.

L. Indian Industry's interest

108. The Authority notes that the purpose of anti-dumping duties, in general, is to eliminate injury caused to the domestic industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the Country. Imposition of antidumping measures would not restrict imports from the subject countries in any way, and, therefore, would not affect the availability of the products to the consumers.
109. It is recognized that the imposition of anti-dumping duties might affect the price levels of the products manufactured using the subject goods and consequently might have some influence on relative competitiveness of these products. However, fair competition in the Indian market will not be reduced by the antidumping measures, particularly if the levy of the anti- dumping duty is restricted to an amount necessary to redress the injury to the domestic industry. On the contrary, imposition of anti-dumping measures would remove the unfair advantages gained by dumping practices,

would prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods.

M. Recommendation

110. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the exporters, importers and other interested parties to provide positive information on the aspect of dumping, injury and causal links. Having initiated and conducted an investigation into dumping, injury and causal links in terms of the provisions laid down under the Anti-dumping Rules and having established positive dumping margin as well as material injury to the domestic industry caused by such dumped imports, the Authority is of the view that imposition of duty is required to offset dumping and injury caused by dumped imports from China PR, Malaysia, Saudi Arabia, and Thailand. However, having found that the volume of imports from South Korea was below de-minimus level during the POI, the Authority considers it appropriate to terminate the investigation against South Korea in terms of Rule 14(d).
111. Having regard to the lesser duty rule, the Authority recommends imposition of definitive anti-dumping duty equal to the lesser of margin of dumping and margin of injury, so as to remove the injury to the domestic industry. Accordingly, the Authority recommends imposition of definitive anti-dumping duties on the imports of the subject goods, originating in or exported from China PR, Malaysia, Saudi Arabia, and Thailand, as indicated in Col 6 of the duty table below, for a period of 5 years from the date of notification to be issued in this regard by the Central Government:

DUTY TABLE

Sr. No	Tariff Item*	Description of Goods	Country of Origin and/or Export	Producer	Duty Amount	Unit
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	3901 30 3920 10	Ethylene Vinyl Acetate (EVA) Sheet for Solar Module	China PR	M/s Changzhou Bbetter Century film Technologies Co. Ltd.	537	USD/MT
2.	3920 62 3920 99 3921 90		China PR	M/s Hangzhou First Applied Material Co. Ltd. / M/s Suzhou First PV Material Co., Ltd	665	USD/MT
3.			China PR	M/s Changzhou Sveck PV New Material Co. Ltd.	590	USD/MT
4.			China PR	Any	897	USD/MT

5.			Saudi Arabia	M/s Saudi Specialized Products Company.	1338	USD/MT
6.			Saudi Arabia	Any	1559	USD/MT
7.			Thailand	M/s TPI all seasons Co. Ltd.	1141	USD/MT
8.			Thailand	Any	1529	USD/MT
9.			Malaysia	Any	953	USD/MT

* Custom classification is only indicative and the determination of the duty shall be made as per the description of PUC. The PUC mentioned above should be subject to above ADD even when it is imported under any other HS code.

112. The duty rates as recommended above are applicable for exports of subject goods manufactured by specified producer mentioned in column (5) above. The Customs should verify the name of the producer at the time of clearance of subject goods.
113. The landed value of imports for this purpose shall be the assessable value as determined by the customs under Customs Tariff Act, 1962 and applicable level of custom duties except duties levied under Section 3, 3A, 8B, 9, 9A of the Customs Tariff Act, 1975.
114. The applicant domestic industry and the responding producers are required to inform the Authority regarding any change in constitution/ ownership of the manufacturing facility, along with relevant documents substantiating the said change, for the subject goods against which Anti-Dumping Measures are being recommended. The information should reach the Authority within 60 days of the said change, if any.
115. An appeal against the order of the Central Government arising out of this final finding shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act.

(Sunil Kumar)
Additional Secretary & Director General