

**To be published in Part-1 Section 1 of the Gazette of India Extraordinary
F. No.6/13/2019-DGTR
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**

NOTIFICATION

(Final Findings)

Dated 11th December, 2020

Sub: Final Finding in Countervailing Duty/Anti-subsidy investigation concerning imports of Textured Tempered Glass whether Coated or Uncoated from Malaysia.

A. BACKGROUND OF THE CASE

File No. 6/13/2019 -DGTR: Having regard to the Customs Tariff Act, 1975, as amended from time to time 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 thereof:

1. Whereas, M/s Gujarat Borosil Limited (hereinafter also referred to as the Petitioner or Applicant) 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 the Customs Tariff (Identification, Assessment and Collection of Countervailing Duty on Subsidized Articles and for Determination of Injury) Rules as amended from time to time (hereinafter also referred to as the Rules) for imposition of Countervailing on imports of "Textured Toughened (Tempered) Glass with a minimum of 90.5% transmission having thickness not exceeding 4.2 mm (including tolerance of 0.2 mm) and where at least one dimension exceeds 1500 mm, whether coated or uncoated" (hereinafter also referred to as the subject goods or PUC) from Malaysia (hereinafter also referred to as the subject country).
2. And, whereas, the Authority, on the basis of sufficient evidence submitted by the Petitioners, issued a public notice vide Notification No. 6/13/2019 - DGTR dated 12th September, 2019, published in the Gazette of India, initiating the subject investigation in accordance with Rule 6 to determine existence, degree and effect of the alleged subsidy and to recommend the amount of anti-subsidy/countervailing 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:

- a) The Authority notified the Embassy of the subject country in India about the receipt of the present anti-subsidy application before proceeding to initiate the investigation in accordance with Sub-Rule (5) of Rule 6 supra.
- b) The Authority invited the Government of Malaysia for consultation with the aim of clarifying the situation and arriving at a mutually agreed solution in accordance with Article 13 of the Agreement on subsidies and countervailing measures. The consultation was held on 29th August, 2019 in New Delhi, which was attended by the representatives of the Government of Malaysia.
- c) The Authority issued a public notice dated 12th September, 2019 published in the Gazette of India Extraordinary, initiating countervailing duty/anti-subsidy investigation concerning imports of the subject goods.
- d) The Authority sent a copy of the initiation notification dated 12th September, 2019 to the Embassy of subject country, known producers/exporters from subject country, known importers/users and the domestic industry as well as other domestic producers as per the addresses made available by the Petitioner and requested them to make their views known in writing within the prescribed time limit.
- e) The Authority provided a copy of the non-confidential version of the application to the known producers/exporters and to the embassies of subject countries in India in accordance with Rule 7(3) of the Rules supra.
- f) The Embassy of subject country in India was also requested to advise the exporters/producers from their country to respond to the questionnaire within the prescribed time limit. A copy of the letter and questionnaire sent to the producers/exporters was also sent to them along with the names and addresses of the known producers/exporters from the subject country.
- g) The Authority sent questionnaires to the Government of the subject country in order to seek relevant facts/information with regard to various schemes/programs where countervailable benefit might have been conferred by the Government. Government of Malaysia filed a questionnaire response, which has also been taken into account.
- h) The Authority sent questionnaires to the following known producers/exporters in subject country, in accordance with Rule 7(4) of the Rules:
 - i. M/s Xinyi Solar (Malaysia) SDN BHD.
 - ii. GAR Lightglass SDN BHD.
- i) In response, the following exporters/producers from the subject countries filed exporter's questionnaire response in the prescribed format:
 - i. M/s Xinyi Solar (Malaysia) SDN BHD.
- j) Pursuant to the initiation notification, apart from the above producers/ exporters from the subject country, Government of Malaysia has also filed the questionnaire response.

- k) 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 7(4) of the Rules:
- i. M/s Waaree Energies Limited
 - ii. M/s Alpex Exports Pvt Ltd
 - iii. M/s Vikram Solar Pvt Ltd
 - iv. M/s Surana Solar Limited
 - v. M/s Topsun Energy Limited
 - vi. M/s Tata Power Solar Systems Limited
 - vii. M/s Emmvee Photovoltaic Power Pvt Ltd
 - viii. M/s Navitas Green Solutions Pvt Ltd
 - ix. M/s Sova Power Limited (Godown)
- l) In response, the following importers/users have responded and filed importer's questionnaire response.
- i. M/s. Waree Energies Ltd.
 - ii. M/s. Patanjali Renewable Energy Pvt. Ltd.
 - iii. M/s. Isolation Energy Pvtl. Ltd.
 - iv. M/s. Goldi Solar Pvt. Ltd.
- m) Apart from the respondent exporters and importers mentioned above, some legal submissions have been received on behalf of the following parties during the course of this investigation.
- (i) Government of Malaysia
 - (ii) All India Solar Industries Association
- n) The Authority made available non-confidential version of the evidence presented/submissions made by various interested parties in the form of a public file kept open for inspection by the interested parties.
- o) Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to provide the transaction-wise details of imports of subject goods for the past three years, and the period of investigation, which was received by the Authority. The Authority has, relied upon the DGCI&S data for computation of the volume of imports and required analysis after due examination of the transactions.
- p) The Non-Injurious Price (NIP) based on the cost of production and cost to make & sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) and Countervailing duty Rules has been worked out so as to ascertain whether Countervailing duty lower than the subsidy margin would be sufficient to remove injury to the Domestic Industry.
- q) Physical inspection through on-spot verification of the information provided by the applicant domestic industry, to the extent deemed necessary, was carried out by the Authority. Only such verified information with necessary rectification, wherever applicable, has been relied upon for the purpose of present disclosure statement.

- r) Verification of the information provided by the producers/exporters and Government of Malaysia to the extent deemed necessary, was carried out by the Authority and such verified information has been relied upon for the purpose of present disclosure statement.
- s) The Period of Investigation for the purpose of the present anti-subsidy investigation is from April, 2018 to March, 2019 (12 Months). The injury investigation period has however, been considered as the period 2015-16, 2016-17, 2017-18 and the POI.
- t) The Authority held an oral hearing on 26.02.2020 to provide an opportunity to the interested parties to present relevant information orally in accordance with Rule 7 (6). The Authority held 2nd oral hearing also on 24.07.2020 due to change in Designated Authority as per the judgment of the Hon'ble Supreme Court in the matter of Automotive Tyre Manufacturers' Association (ATMA) vs. Designated Authority, in Civil Appeal No. 949 of 2006 on 07-01-2011. The interested parties who presented their views orally at the time of oral hearing were asked to file written submissions of the views expressed orally. The interested parties were provided opportunity to offer rejoinder submissions to the views expressed by other interested parties. The submissions made therein have been duly considered and addressed appropriately.
- u) The arguments made in the written submissions/rejoinders received from the interested parties have been considered in the present disclosure statement.
- v) The submissions made by the interested parties during the course of this investigation, wherever found relevant, have been addressed by the Authority, in this disclosure statement.
- w) Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered 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.
- x) Further information was sought from the applicants and other interested parties to the extent deemed necessary.
- y) Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has considered such parties as non-cooperative and recorded the disclosure statement on the basis of the facts available.
- z) A Disclosure Statement was issued to interested parties on 25th November, 2020 containing essential facts under consideration of the Designated Authority, giving time up to 30th November, 2020 to furnish comments, if any, on the Disclosure Statement. The Authority has considered post disclosure comments received from interested parties appropriately in the present final findings.

aa) The exchange rate adopted by the Authority for the subject investigation is 1 USD = ₹70.85

bb) In the final findings, *** represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.

C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

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

"Textured Toughened (Tempered) Glass with a minimum of 90.5% transmission having thickness not exceeding 4.2 mm (including tolerance of 0.2 mm) and where at least one dimension exceeds 1500 mm, whether coated or uncoated".

C.1. Submissions made by the Domestic Industry

5. The submissions made by the domestic industry with regard to product under consideration and like article and considered relevant by the Authority are as follows:

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

b) The subject good is used as a component in Solar Photovoltaic Panels and Solar Thermal applications. The glass of thickness 3.2 mm and 4 mm is generally used in Solar 4 Photovoltaic Panels and Solar Thermal applications as per the current trend. The subject goods are classified under chapter heading 70071900. However, it has been claimed by the petitioner that the subject goods are also being imported under various other tariff headings like 70031990, 70051010, 70051090, 70052190, 70052990, 70053090, 70071900 etc.

c) As per the usual practice of the Authority, it is clarified that the HS codes are only indicative and the product description shall prevail in all circumstances.

C.2. Submissions made by the other interested parties

6. None of the interested parties filed any comments regarding Product under Consideration.

C.3. Examination by the Authority