and is deducted from the adjusted income from the business in arriving at the statutory income. It is calculated on a straight-line method on the basis of a prescribed rate of allowance. All companies that meet the eligibility criteria can claim the CA. This program is available to all companies and the IRB applies objective criteria in granting CA. Thus, this program does not constitute a countervailable subsidy because it is not linked to export conditions, not specific and it is generally available

c. Examination by the authority

127. Authority notes that capital allowance provides deductions for qualifying expenditure on machinery or plant. It is given to enterprise that incurs the qualifying expenditure. It is calculated for a year of assessment and is deducted from the adjusted income from the business in arriving at the statutory income. It is calculated on a straight-line method based on a prescribed rate of allowance.

128. Authority notes that this program does not provide countervailable benefit because it provides for normal deduction of depreciation on plant and machinery as per straight line method to all enterprise. Therefore, the Authority holds that no countervailing duty should be imposed against this subsidy program.

(xviii) Program No. 18: Export Credit Refinancing

a. Submission by the Domestic Industry

129. The Domestic Industry has contended that this scheme is in the form of export credit. It is a short term and post shipment financing to direct and indirect exporters. Exporters can obtain financing up to 95% of the value of their export order.

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

130. Export Credit Refinancing (ECR) scheme is used to promote Malaysia's exports and international trade in the form of Pre-shipment and Post-shipment financing. ECR is available to all companies incorporated in Malaysia and involved in export activity.

131. The operational procedure of the ECR Scheme is governed by the ECR Guideline which is issued by EXIM Bank.

c. Examination by the Authority

132. The Authority notes that the program is administered by Export-Import Bank of Malaysia (EXIM Bank). Export credit refinancing program provides loan to enterprise to finance export of products. The program is governed by Export Credit Refinancing guideline issued by the Bank, which provides for eligibility criteria including eligibility of product (negative list of products which is maintained by bank) for the purpose of the program. The subsidy program is not restricted to any particular sector and is available to all companies incorporated in Malaysia.

133. EXIM Bank is a government-owned Development Financial Institution. It is a wholly owned subsidiary of the Minister of Finance Incorporated (Inc.). As an agency under the purview of the Ministry of Finance, EXIM Bank's mandated role is specified by the

Government. It is to provide credit facilities to finance and support exports and imports of goods, services and overseas projects with emphasis on non-traditional markets, providing export credit insurance services, export financing insurance, overseas investments insurance and guarantee facilities.

134. The Authority determines that EXIM Bank is a public body because it is owned by Government and is vested with the Government Authority to carry out governmental functions. Accordingly, the loan provided by EXIM Banks are financial contribution in the form of direct transfer of funds by a public body. The benefit conferred on the recipient is in the form of difference between the amount of interest charged by the EXIM bank and the amount of interest charged by the comparable commercial loan.

135. Therefore, this program is noted to be countervailable. However, the benefit under this program is not availed by the cooperating exporter.

(xix) Program No. 19: Buyer Credit Guarantee

a. Views of the Domestic Industry

136. The Petitioner submitted that under this program the overseas buyers are backed by EXIM Bank's unconditional and irrevocable guarantee in which lending bank is guaranteed repayment of due and interest amount. Malaysian exporter can help the overseas buyer to secure a long-term financing with a lender using the BCG. Malaysian exporter is paid as if he has a cash contract, whilst the overseas buyer has time to pay the contract through financing secured from the lender which is backed by EXIM Bank's guarantee. The evidence given is Buyer Credit Insurance by EXIM Bank. The loan amount under this program must be minimum value of RM 2mn in support of a cash contract and the repayment period should be at last 2 years and maximum 15 years.

b. Submission by Government/other interested parties

137. Bankers Trade Credit Takaful (BTCT) is a Credit Takaful designed to protect the Islamic Financial Institutions (IFIs) against risk of non-payment by their exporters arising from Page 45 of 139 default by the overseas buyers. It's available against a trade finance facility on trade terms such as Open Account, Documentary Collection and/or Letter of Credit.

c. Examination by Authority

138. The Authority notes that the program is administered by Exim Bank. There is no law or legal regulation governing the program.

139. The Authority has already determined that EXIM Bank is a public body. Under this program, EXIM Bank provides guarantee to financial institutions against risk of non payment by their exporters (customers) because of default arising from overseas buyers. The program provides for financial contribution in the form of potential direct transfer of funds and benefit is thereby conferred. The benefit conferred on the recipient is equivalent to (i) the difference between the fee paid by the recipient for availing guarantee from EXIM Bank and the fee that would have been paid to any other commercial bank for such guarantee and (ii) the difference between the loan repayment

to the lending bank in question (owing to less than normal commercial interest rate because of EXIM bank guarantee) and the amount that would have been payable in absence of such guarantee (based on normal commercial interest rate). The subsidy program is also specific because it is contingent on export.

140. Therefore, this program is noted to be countervailable. However, the benefit under this program is not availed by the cooperating exporter.

(xx) Program No. 20: Licensed Manufacturing Warehouse (LMW)

a. Views of the Domestic Industry

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

b. Submission by Government/other interested parties

142. Section 65 of the Customs Act 1967 provides for storage of dutiable goods and Section 65A of the Customs Act 1967 provides for manufacturing process to be carried out in licensed warehouses. Licensed Manufacturing Warehouses (LMW) can be set up in Principal Customs Area (PCA) i.e. any part of Malaysia excluding a free zone, Labuan and Langkawi. Manufacturing operations therein are subjected to customs procedures.

143. Exemption from customs duties and sales tax is given to all raw materials/components used directly in the manufacturing process of approved products regardless of whether the finished products are meant for export or local market from the initial stage of manufacture until the finished products. This includes packaging materials and casings. Further, only machinery and equipment required for direct manufacturing process of approved final products are eligible for exemption from customs duty and sales tax.

144. Machinery/equipment used directly in the manufacturing process in the LMW is exempted from import duty/sales tax regardless of whether the finished products are meant for export or local market.

c. Examination by Authority

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

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

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

(xxi) Program No.21: Investment Tax Allowance under the Income Tax Act, 1967

a. Submission by the Domestic Industry

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

b. Submission by Government of Malaysia/other interested parties

149. Investment Tax Allowance (ITA) may be granted to any company. The incentive will be given based on merits of certain case such as capital intensive, capable of generating significant linkages, import substitution, high value added, technology, green technology, job creation, contribution to the development of manufacturing support services and spillover effect to the country.

c. Examination by Authority

150. The Authority notes that the program is administered by Malaysian Investment Development Authority (MIDA). The program is governed by Section 65 and Section 65A of the Customs Act, 1967. Xinyi Solar (Malaysia) SDN BNHD has also admitted receiving benefit under this program. Therefore, this program is noted to be countervailable.

Producers/Exporters from Malaysia

M/s Xinyi Solar (Malaysia) SDN BHD.

151. M/s Xinyi Solar (Malaysia) SDN BHD is a producer/exporter of subject goods in Malaysia. M/s Xinyi Solar (Malaysia) SDN BHD filed questionnaire response and provided information regarding the subsidy programs availed by them.

152. Authority has verified the information provided by M/s Xinyi Solar (Malaysia) SDN BHD and determined subsidy margin for program no. 1, 8, 20 and 21 for which benefit was received or accrued during the POI. Authority holds that these subsidy programs resulted in the provision of financial contribution in the form of revenue foregone which was otherwise due. The Authority further notes that with respect to Program no. 1, no claim on receipt/non receipt of subsidy on natural gas has been made by the cooperating exporter in its response whereas the Government of Malaysia has admitted that gas prices in Malaysia are regulated. However, during the desk verification, M/s Xinyi Solar (Malaysia) SDN BHD provided documents which showed that the company is availing subsidy benefits.

153. The Authority also noted the international import price of Liquified Natural Gas in Malaysia. However, the co-operating exporter has stated that gas being supplied to them is natural gas and not the liquified gas. Accordingly, the Authority has determined the benefit under Program No. 1 for Xinyi Solar (Malaysia) SDN BHD on the basis of desk verification of data filed by the exporter duly correlated with the submissions filed by the Government of Malaysia on modalities of grant and availability of subsidies.

154. As regards Program No. 8, Xinyi Solar (Malaysia) SDN BHD has not claimed any benefit under the program. However, during the desk verification, the company presented documents which showed that the company is availing the said subsidy.

155. The table below provides name of the subsidy programs, and the corresponding subsidy margin.

Program No.	Name of the grant program	Brief Description/Comment	Subsidy margin %	Subsidy Margin Range %
Program No. 1	Subsidies on Natural Gas	Availability of natural gas at government regulated prices	***	0-10
Program No. 8	Sales Tax Exemption	Exemption from payment of sales tax for specific person on acquisition of raw materials, components and packaging material to be used solely and directly in manufacture of taxable goods	***	0-10
Program No. 20	Licensed Manufacturing Warehouse	Exemption from custom duties and sales tax to all raw materials/components used directly in the manufacturing process of approved products regardless of whether the finished products are meant for exports or local market from the initial stage of manufacture until the finished products	***	0-10
Program No. 21	Investment Tax Allowance	Exemption of 100% on capital expenditures. The total investment cost on production facilities incurred within the period of ten (10) years from February 2015 can be used to offset the taxable profit incurred since year 2015 till the accumulated ITA is fully utilised.	***	0-10
Total			***	0-10

Total (after considering interest)		***	0-10

156. The Authority has determined the subsidy margin for all other producers/exporters from Malaysia on the basis of export price of the cooperating exporter and international import price of Liquified Natural Gas in Malaysia.

H. INJURY ASSESSMENT AND CAUSAL LINK

H.1. Submission made by the Domestic Industry

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

a. Imports of the product under consideration from the subject country have shown massive increase over the years with a significant increase in POI. Imports have also shown increase in relation to production and consumption in India.

b. Market share of the subject country in demand has been continuously increasing while there is a significant decline in the market share of the Domestic Industry. Further, the market share of the imports from other countries has also declined.

c. Domestic industry prices reflect the effect of the prices that are being offered by the exporters in the domestic market.

d. The market share, production, sales and capacity utilization of the Domestic Industry has been adversely affected by the dumped imports from subject country.

e. 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.

f. Performance of the domestic industry has steeply deteriorated in terms of profits. In fact, the losses of the Domestic Industry have increased significantly in the injury investigation period and the period of investigation.

g. The decline in profitability of the domestic industry was due to significant increase in the subsidized import from the subject country at non-remunerative prices.

h. There has been decrease in selling price despite increase in cost of production and thus the subsidized imports from the subject country are creating price suppression effect on the domestic industry.

i. The domestic industry has suffered material injury in connection with subsidized imports of subject goods from the subject country. Further, the domestic industry is threatened with continued injury, should the present condition continue.

H.2. Submission by other interested parties

158. The submissions made by other interested parties with regard to injury and causal link, are as follows:

a) The petition does not contain adequate evidence of injury to justify the initiation of this investigation.

b) The imports from the targeted country have at no point in time during the period considered put any sort of volume pressure on the sales of the petitioner. The quantum of imports from Malaysia is very less and constitutes only 29.03% share of the total imports whereas the imports from other countries constitutes 70.65% of the total imports. The demand of the subject goods in India has been increased by more than 3 times, however, imports from subject countries constitutes a very nominal share of the same.

c) Petitioner is increasing its capacity every year during the injury period and POI. Capacity has increased from 100 during the base year 2015-16 to 227 during the period of investigation. Accordingly, production of product under consideration has also increased sharply during the POI to 130 and 207 of uncoated and coated respectively from 100 during the base year 2015-16.

d) Purported injury, if any, is mainly caused to the Domestic Industry because of undue/unjustified capacity. Domestic industry is not able to stabilize its capacity which results into negative impact on the overall performance of the petitioner and the capacity utilization % declined. In case, the petitioner had not increased the capacity so frequently, it must be operating on optimum capacity utilization. Such inappropriate decisions of increasing the capacity every year have caused injury to the petitioners not the imports from subject countries.

e) The reason for the decline in the domestic selling price is not the continuous price pressure from the subject country as mentioned in the petition but the dumping of the goods from the other countries and other issues which are provided in the Annual Report of 2018-19 and 2017-18.

f) Wages have increased during the POI with the decrease in number of employees. During the POI, the no. of employees declined from 100 to 90 as compared to the base year 2015-16, however, wages have increased substantially from 100 to 139. From the trend given by the petitioner, they are unable to understand as to how wages can increase so substantially with the decline in no. of employees.

g) It is submitted that for the calculation of injury and causal link, the injurious effects of the subject imports must be segregated from other factors that cause injury pursuant to Article 15.5 of the SCM Agreement and Annexure I of the Anti-Subsidy Rules.

H.3. Examination by the Authority

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

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

13. Determination of injury-
(1) In the case of imports from specified countries, the designated authority shall give a further finding that the import of such article into India causes or threatens material injury to any industry established in India, or materially retards the establishment of an industry in India.
(2) Except when a finding of injury is made under sub-rule (3), the designated authority shall determine the injury, threat of injury, material retardation to the establishment of an industry and the casual link between the subsidized import and the injury, taking into account inter alia, the principle laid down in Annexure I to the rule.
(3) The designated authority may, in exceptional cases, give a finding as to the existence of injury even where a substantial portion of the domestic industry is not injured if –
(i) there is a concentration of subsidized imports into an isolated market, and
(ii) the subsidized imports are causing injury to the producers of almost all of the production within such market.

I. Volume Effect of subsidized imports and Impact on domestic Industry

i. Assessment of Demand

161. Demand or apparent consumption of the product concerned in India is defined as the sum of domestic sales of all Indian producers and imports from all other countries. It is seen that demand has increased over the injury period. For the purpose of injury analysis, the Authority has relied on the DGCI&S import data. The demand so assessed is as follows-

S. No	Year	2015-2016	2016-2017	2017-2018	POI
1	Domestic Industry sales (MT)	***	***	***	***
2	Sales of other domestic producers (MT)	0	0	0	0
3	Total domestic sales	***	***	***	***
4	Imports from Subject countries (MT)	1	4297	37279	41789
5	Imports from other countries (MT)	30718	85529	64190	100596
6	Total Imports (MT)	30719	89826	101469	142385
7	Total demand (MT)	***	***	***	***
8	Trend	100	227	265	349
9	Market share of Domestic sales in demand	30-40	10-20	20-30	10-20
10	% Share of Subject countries in demand	0	0-10	20-30	20-30
11	% share of other countries in demand	60-70	70-80	40-50	50-60

162. It is noted from the above that:

a. The demand of the subject goods has increased by around 3.5 times.

b. The share of the subject country in demand has increased from almost negligible in the base year to around *** in the POI.

c. The market share of the Domestic Industry in demand has decreased from *** in the base year to around *** in the POI.

d. The market share of the other countries in demand has decreased from *** in the base year to around *** in the POI.

ii. Imports volumes and share of the imports from subject country

163. With regard to volume of the subject imports, the Authority is required to consider whether there has been a significant increase in subsidized imports either in absolute terms or relative to production or consumption in India. The volume of imports of the subject good from the subject country to both DTA and SEZ units has been analyzed as under-

S. No.	Year	2015-2016	2016-2017	2017-2018	POI
1	Imports from Subject countries (MT)	1	4297	37279	41789
2	Imports from other countries (MT)	30718	85529	64190	100596
3	Total Imports (MT)	30719	89826	101469	142385
4	Trend	100	292	330	464
5	Domestic Industry sales (MT)	***	***	***	***
6	Sales of other domestic producers (MT)	0	0	0	0
7	Total domestic sales	***	***	***	***
8	Trend	100	118	156	157
9	Total demand (MT)	***	***	***	***
10	Trend	100	227	265	349
11	Share in imports				
12	Imports from Subject countries (MT)	0%	5%	37%	29%
13	Imports from other countries (MT)	100%	95%	63%	71%
14	Share in Demand				
15	Market share of Domestic sales in demand	30-40	10-20	20-30	10-20
16	% Share of Subject countries in demand	0	0-10	20-30	20-30
17	% share of other countries in demand	60-70	70-80	40-50	50-60

164. After segregating the imports by SEZ units and non-SEZ units, the imports of PUC in non-SEZ units are as under:

S. No.	Year	2015-2016	2016-2017	2017-2018	POI
1	Imports from Subject countries (MT)	0	348	6218	21521
2	Imports from other countries (MT)	16261	44241	34843	32912
3	Total Imports (MT)	16261	44589	41061	54433
4	Trend	100	274	253	335
5	Domestic Industry sales (MT)	***	***	***	***
6	Sales of other domestic producers (MT)	0	0	0	0
7	Total domestic sales	***	***	***	***
8	Trend	100	155	224	218
9	Total demand (MT)	***	***	***	***
10	Trend	100	223	240	285
11	Share in imports				

12	Imports from Subject countries (MT)	0%	1%	15%	40%
13	Imports from other countries (MT)	100%	99%	85%	60%
14	Share in Demand				
15	Market share of Domestic sales in demand	40-50	30-40	40-50	30-40
16	% Share of Subject countries in demand	0	0-10	0-10	20-30
17	% share of other countries in demand	50-60	70-80	50-60	40-50

165. Based on actual export data submitted by the cooperating exporter/producer, the above data is modified as under:

S. No.	Year	2015-2016	2016-2017	2017-2018	POI
1	Imports from Subject countries (MT)	0	348	6218	24352
2	Imports from other countries (MT)	16261	44241	34843	32912
3	Total Imports (MT)	16261	44589	41061	57264
4	Trend	100	274	253	352
5	Domestic Industry sales (MT)	***	***	***	***
6	Sales of other domestic producers (MT)	0	0	0	0
7	Total domestic sales	***	***	***	***
8	Trend	100	155	224	218
9	Total demand (MT)	***	***	***	***
10	Trend	100	223	240	295
11	Share in imports				
12	Imports from Subject countries (MT)	0%	1%	15%	43%
13	Imports from other countries (MT)	100%	99%	85%	57%
14	Share in Demand				
15	Market share of Domestic sales in demand	40-50	30-40	40-50	30-40
16	% Share of Subject countries in demand	0	0-10	0-10	20-30
17	% share of other countries in demand	50-60	70-80	50-60	30-40

166. It is noted that there has been an increase in the absolute volume of imports from subject country in POI as compared to the previous years.

167. The share of subject country in total imports has increased from almost negligible in 2015-16 to 30% in the POI, whereas for non-SEZ units, the same has increased from negligible to 43% in the POI. Similarly, the market share of imports from subject country in total demand for non-SEZ units has increased from 0% in 2015-16 to ***% in the POI, whereas the share of domestic industry sales in total demand for non-SEZ units has decreased from ***% in 2015-16 to ***% in POI. Thus, volume of imports from the subject country have increased in absolute terms in relation to imports made only to non-SEZ units whereas the sales of domestic industry has decreased.

J. Price effect of subject imports and impact on domestic industry

168. With regard to the effect of subsidized imports on prices, the Authority has considered whether there has been a significant price undercutting by the subsidized imports as compared with the price of the like product in India, or whether the effect of such subsidized imports is otherwise to depress prices to a significant degree or prevent price