

increase, which otherwise would have occurred, to a significant degree. For the purpose of this analysis, the Cost of Production, Net Sales Realization (NSR) and the Non-injurious price (NIP) of the domestic industry have been compared with the landed cost of imports from subject country. This analysis, is however, limited to imports of subject goods by non-SEZ units and Domestic Industry sales also to non-SEZ unit.

iii. Price Undercutting

169. Price undercutting has been worked out by comparing the landed price of imports with the selling price of the domestic industry for the investigation period. The price undercutting has been determined separately for each PCN produced by the domestic industry and thereafter for the product under consideration as a whole.

Particulars - Total PUC	Unit	2015-2016	2016-2017	2017-2018	POI
Landed price of imports	Rs/MT	30132	32993	32593	36484
Net selling price	Rs/MT	***	***	***	***
Price undercutting	Rs/MT	***	***	***	***
Price undercutting	%	***	***	***	***
Price undercutting	Range	40-50	30-40	20-30	10-20

170. The Authority notes that the price undercutting is positive throughout the injury investigation period including the period of investigation.

iv. Price underselling / Injury Margin

171. The Authority has worked out non-injurious prices of the subject goods and compared the same with the landed values of the imported goods to arrive at the extent of price underselling. The price underselling/ injury margin has been determined separately for each coated and uncoated glass and thereafter for the product under consideration as a whole.

Price underselling	Unit	POI
NIP	Rs/MT	***
Landed price of imports	Rs/MT	36484
Price underselling	Rs/MT	***
Price underselling	%	***
Price underselling	Range	10-20

172. It is noted from the above table that the price underselling/ injury margin is positive, indicating that the imports have entered the market at injurious prices.

v. Price suppression and depression

173. In order to determine whether the effect of imports is to depress prices to a significant degree or prevent price increases which otherwise would have occurred, the Authority has examined the changes in the landed price of imports, and costs & prices of the domestic industry over the injury period.

SN	Particulars	Unit	2015-2016	2016-2017	2017-2018	POI
1	Cost	Rs./MT	***	***	***	***
2	Trend	<i>Indexed</i>	100	100	97	100
3	Selling price	Rs./MT	***	***	***	***
4	Trend	<i>Indexed</i>	100	102	99	101
5	Landed Price	Rs./MT	30132	32993	32593	36484
6	Trend	<i>Indexed</i>	100	109	108	121

174. It is seen that the cost of the Domestic Industry has remained more or less same during the injury investigation period. However, there has been a decline in the selling price of the Domestic Industry. The Domestic Industry has stated that the low priced subsidized imports from the subject country have prevented the Domestic Industry from increasing their prices. It is noted that the landed price of imports from the subject country have remained below the cost and selling price of the Domestic Industry. This shows that the imports are suppressing the prices of the domestic industry and are preventing the price increases, which otherwise would have occurred.

K. Economic parameters relating to the domestic industry

175. The Rules require 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 Rules further provide that the examination of the impact of the 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, actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments. Accordingly, performance of the domestic industry has been examined over the injury period.

i. Production, capacity, capacity utilization and sales

176. The position of the domestic industry over the injury period with regard to production, capacity, capacity utilization, domestic sales and export is as under:

SN	Particulars	Unit	2015-2016	2016-2017	2017-2018	POI
1	Capacity	MT	***	***	***	***
2	Production	MT	***	***	***	***
3	Capacity Utilization	%	***	***	***	***
4	Domestic Sales	MT	***	***	***	***
5	Capacity Utilization	<i>Indexed</i>	100	117	77	73

177. The Authority notes that-

- a. To keep up with the demand, the Domestic Industry has continuously increased its capacity throughout the injury investigation period.
- b. The capacity utilization of the Domestic Industry has declined in the POI.

- c. The production of the domestic industry has increased over the injury period. The domestic sales of the domestic industry have also increased in the POI.

ii. Market Share

178. The details of imports (non SEZ units), domestic sales and market share of the domestic industry is as below:

SN	Market Share	Unit	2015-2016	2016-2017	2017-2018	POI
1	Sales of Domestic Industry	%	40-50	30-40	40-50	30-40
2	Sale of Other Producers	%	0	0	0	0
3	Subject Countries	%	0	0-10	0-10	20-30
4	Other Countries	%	50-60	70-80	50-60	40-50
5	Total Demand	%	100%	100%	100%	100%

179. It can be seen that the market share of the domestic industry and other countries in demand have declined whereas share of subject country import has increased significantly.

iii. Profit or loss, cash profits and return on capital employed

180. The profit position of the domestic industry in terms of profit or loss, cash profits and return on investment is as under:

SN	Particulars	Unit	2015-2016	2016-2017	2017-2018	POI
1	Cost	Rs./MT	***	***	***	***
2	Selling price	Rs./MT	***	***	***	***
3	Profit/(Loss)	Rs./MT	***	***	***	***
4	Profit/(Loss)	Rs. Lacs	***	***	***	***
5	ROCE	%	***	***	***	***
6	ROCE	<i>Indexed</i>	-100	-83	-106	-111

181. The Authority notes that:

- The losses of the Domestic Industry have increased in the POI.
- Profit and return on capital employed of the domestic industry have followed the similar trend.

iv. Inventories

182. The data relating to inventories of the subject goods is as follows-

SN	Particulars	Unit	2015-2016	2016-2017	2017-2018	POI
1	Average Stock	MT	***	***	***	***
2	<i>Trend</i>	<i>Indexed</i>	100	18	20	184

183. It is noted that the average inventories have increased in the POI as compared to the previous years.

v. Employment, wages and productivity

184. The situation of the domestic industry with regard to employment, wages and productivity during the injury period is as under:

SN	Particulars	Unit	2015-2016	2016-2017	2017-2018	POI
1	Wages	Rs	***	***	***	***
2	Wages	<i>Indexed</i>	100	117	105	139
3	Employment	Nos	***	***	***	***
4	Employment	<i>Indexed</i>	100	94	101	90

185. It is seen that the number of employees has declined over the injury period with an increase in wages and the productivity per employee and per day.

vi. Growth

186. There was negative growth of the domestic industry in terms of sales, production, profits, cash profit as well as ROI despite significant increase in demand. The Domestic industry has contended that they were not able to achieve positive growth due to the presence of the subsidized imports.

vii. Factors affecting domestic prices

187. The Authority notes that the imports are undercutting the prices of the domestic industry. The market share of subject imports has increased over the period, whereas that of the domestic producers has declined. This shows that the imports are penetrating the market with low prices.

viii. Ability to raise capital investment

188. It is seen that the domestic industry has enhanced capacity for the subject goods over the period, making capital investment. However, despite increase in demand, the capacities are lying significantly underutilized.

189. It is noted that the volume parameters of the domestic industry have shown growth. However, they have not been able to keep up with increase in demand. Further, there has been deterioration in price parameters. The profits, cash profit and return on capital employed have also shown a significant decline over the injury period. The profitability of the domestic industry has declined over the injury period.

L. Conclusions on Injury

190. The Authority notes that the imports have increased significantly in absolute terms as well as in relation to production and consumption in India. The imports are undercutting the prices of the domestic industry and have had a suppressing effect on the prices of the domestic industry. The price underselling is also positive. While the market share of subject imports has increased significantly, that of domestic producer has declined. The capacity utilization of the domestic industry has declined. Even though performance of the

domestic industry has improved in terms of production and sales, the same was not proportionate to the increase in demand. Further, domestic sales and capacity utilization have declined; it is seen that the domestic industry is suffering from underutilized capacities. Further, the losses of the domestic industry have increased and its cash profits, PBIT and return on investment have followed the same trend. The Authority takes note of the fact that apart from the cooperating exporter, anti-dumping duties are in place against the subject goods from subject country. However, the subject goods continue to be imported at injurious prices. Accordingly, the Authority concludes that the domestic industry has suffered material injury.

M. Causal Link

191. The Authority has examined whether other known factors could have caused injury to the domestic industry as follows:

a. Volume and prices of imports from third countries

192. Imports of the product under consideration from each country other than Malaysia and countries already attracting anti-dumping duty in the POI are below 3% of the total imports.

b. Contraction of demand and changes in the pattern of consumption

193. The Authority notes that there is no contraction of demand. On the contrary, overall demand for subject goods has shown significant increase over the injury period. Further, there have been no changes in the pattern of consumption which could have caused injury to the domestic industry.

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

194. There is no known trade restrictive practice which could have contributed to the injury to the domestic industry.

d. Developments in technology

195. None of the interested parties has furnished any evidence to demonstrate any change in the technology that could have caused injury to the domestic industry.

e. Export performance of the domestic industry

196. The injury information has been considered separately for domestic and exports, to the extent the same could be segregated.

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

197. The Authority has considered data only in relation to the product under consideration.

N. Factors relevant for causal link

198. The authority notes as under:-

- a. The imports of subject goods in the country are at lower prices than the domestic industry prices.
- b. Subsidized imports from subject country are coming into India in substantial volumes.
- c. The imports are undercutting the prices of the domestic industry which lead to the decline of the selling price of the domestic industry as the imports are suppressing the prices of the domestic industry and prevented price increases, which otherwise would have occurred.
- d. There is decline in market share of domestic producers due to the positive price undercutting.
- e. Consequent impact of subsidized imports on the domestic industry has been significantly adverse.

O. Post Disclosure Comments

199. The Authority issued a disclosure statement on 25.11.2020 disclosing essential facts of the case and inviting comments from all the interested parties. The post-disclosure submissions have been received from the interested parties. Majority of the issues raised have already been raised earlier and also addressed appropriately. Additional submissions to the extent deemed relevant have been examined as under.

Submissions made by Domestic Industry

200. The Authority proposes to grant individual subsidy margin to the cooperating exporter despite the fact that the disclosure statement itself categorically reveals that information with regard to the availing of certain subsidy programs was not revealed either by the exporter or the Government of Malaysia.
201. The Authority invariably rejects the response that are found to be deficient or incomplete in respect of important information. It may be pertinent to point out that in the recent final finding issued by your good self [Anti-dumping investigation concerning imports of “New pneumatic radial tyres of rubber for buses and lorries, with or without tubes and/or flaps” (F.No. 6/30/2019-DGTR dated 27.11.2020)], they were found to be deficient, in this case where there is absolutely no doubt about the wilful suppression of facts and falsification of information by the Malaysian exporter as well as the Government of Malaysia, the disclosure statement appears to be inclined to accept their responses.
202. The disclosure statement further suggests that the so-called cooperating exporter may be granted individual subsidy margin which shall be contrary to the legal position as well as the established practices of the DGTR. Further, this undue benefit proposed to be given to them in the disclosure statement despite such conduct would tantamount to denial of the legitimate interests of the Domestic Industry.

203. As regards program no. 1 (Gas Subsidy); both, the Government of Malaysia (GoM) and the so-called cooperating exporter had declined that the said subsidy is available to the industrial users in Malaysia. The response of GoM though admits that the gas prices for Industrial users are regulated in Malaysia. Later, the verification reveals that the invoices of the exporters themselves state the existence of gas subsidies. The Authority has recognized the fact that the GoM and the exporter has wilfully tried to suppress information regarding this subsidy in its examination under paras 42, 114 and 115. Further, the Authority proposes to grant benefit to the Malaysian exporter by using the half-baked information submitted by the said exporter instead of a benchmark price which is uninfluenced by government intervention. While the Authority has recognised the falsification and suppression of information by the Malaysian exporter and the GoM, undue benefit is proposed to be given to them by not rejecting the responses of the said parties. The disclosure statement further suggests that the so-called cooperating exporter may be granted individual subsidy margin which shall be contrary to the legal position as well as the established practices of the DGTR.
204. As regards subsidized electricity due to gas subsidy; there is absolutely no information/submission either by the GoM or the cooperating exporter with respect to the benefit received by electricity companies in the form of gas subsidies which in turn leads to cheaper electricity cost and prices. While the Authority has recognised the submission of the Domestic Industry in para 33, in its examination, the Authority has not dealt with the submission of the Domestic Industry nor even mentioned the impact of gas subsidies on the cost of electricity. The subsidy on natural gas, while providing the industries in manufacturing sector access to cheap gas, leads to reducing the cost of electricity production. The electricity so produced at cheap rates leads to substantial overall cost reducing the cost reduction. Therefore, it was obligatory for the interested parties to have provided the relevant information to the Authority, in the absence of which their responses ought to be rejected.
205. As regards program no. 8 (Sales Tax Exemption); both, the GoM and the cooperating exporter had declined that the said subsidy is available to the industrial users in Malaysia. It was only after the lies of the exporter were caught during verification, some document was provided by the exporter thereby admitting that benefit had indeed been received by them. Till date, there is no response of GoM on the said subsidy scheme nor have they provided information to certify that information provided by the exporter is correct. The Authority has recognised the fact the GoM and the exporter has suppressed information regarding this subsidy in its examination under the following para; *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.* While the Authority has recognised the falsification and suppression of information by the Malaysian exporter and the GoM, undue benefit is proposed to be given to them by not rejecting their response. Further, without there being confirmation from the GoM that the information given by the cooperating exporter is correct, the Authority could not have accepted the information supplied by the cooperating exporter. The response of the Malaysian exporter and the GoM should have been rejected on this ground alone.
206. As regards acceptance of the responses of the GoM and the Malaysian exporter; the Authority while clearly noted the falsification suppression of information in the responses of GoM and Malaysian exporter and has proposed to accord the Malaysian exporter