

7. The Authority has noted submissions made by various interested parties with regard to scope of the product under consideration and like article offered by the domestic industry. With respect to the product under consideration, the Authority notes as follows:
- a) The product under consideration in the present investigation 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. It is clarified that the HS codes are only indicative and the product description shall prevail in all circumstances.

D. SCOPE OF DOMESTIC INDUSTRY & STANDING

D.1. Submissions made by the Domestic Industry

8. The submissions made by the domestic industry during the course of the investigation with regard to scope of domestic industry & standing are as follows:
- a) The applicant is the only producer of the subject goods in India.
 - b) The applicant has neither imported the subject goods nor is related to any of the importer or exporter.

D.2. Submissions of other interested parties

9. None of the interested parties filed any submission with regard to the scope and standing of the domestic industry.

D.3. Examination by the Authority

10. Rule 2(b) of the Rules provides as follows:

“domestic industry means the domestic producers as a whole of the like article or domestic producers 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 subsidized article, or are themselves importers thereof, in which case such producers shall be deemed not to form part of domestic industry”.

11. The application has been filed by M/s Gujarat Borosil Limited, as domestic industry of the product under consideration. The Authority notes that the applicant is the sole producer of the subject goods in India.
12. The Authority further notes that the applicant has neither imported the subject goods nor is related to any importer or exporter of the subject goods. The Authority holds that the applicant constitutes a major proportion of the production of the subject goods in India. Accordingly, for the purpose of this investigation, the applicant satisfies the standing requirement and constitutes the domestic industry in terms of Rule 2(b) and Rule 6(3) of the Rules.

E. ISSUES RELATING TO CONFIDENTIALITY

E.1. Submissions by domestic industry

13. The following submissions have been made by the domestic industry with regard to confidentiality issues:
 - a) The applicant has followed the requirements mentioned under Trade Notice No. 10/2018 to the hilt and has provided all the information as required under the said Trade Notice.
 - b) The contention of the Malaysian exporter with respect to annual account statements and balance sheet of the applicant is incorrect in view of the fact that the annual account statements and balance sheet submitted by the applicant to the Authority includes the account statements and balance sheet with respect to specific PUC as well. While the annual account statements and balance sheet of the applicant at the company level are available at the website of the applicant, the standalone annual account statements and balance sheet pertaining to the PUC is confidential and is not required to be provided to the opposite parties.
 - c) While the Malaysian exporter has raised issue regarding the applicant not providing a copy of its annual report, the said exporter itself has not provided its annual report.
 - d) The responses from the Government of Malaysia, participating producer/exporter as well as that of the importer are not in accordance with their obligations under Rule 7 of the Countervailing Duty Rules and the various Trade Notices issued by the Authority in this regard.
 - e) The names of the schemes availed by the producer/exporter have been claimed as confidential. This cannot be permitted under any circumstances as such withholding of critical information has severely restricted the ability of the Domestic Industry to comment on the response filed by them. Unfortunately, none of the said parties has attempted to make good for the deficiencies in their responses nor was any explanation

provided for claiming such vital information as confidential in their written submissions.

- f) The exporter from Malaysia and participating importers have claimed confidentiality even on the narrative portion to the questionnaire response. It is further submitted that quantitative figures also kept as confidential. This claim of excessive confidentiality has severely restricted the ability of the Domestic Industry to assist the Authority.

E.2. Submissions by other interested parties

14. The following submissions have been made by other interested parties with regard to confidentiality issues:

- a) The non-confidential version of the petition violates the requirements and standards laid down in in Rule 7 and 8 of the CVD Rules and Trade Notice No 10/2018 issued by the DGTR.
- b) The Petition does not comply with Trade Notice no. 10/2018 dated 7th September 2018, which sets standards for disclosure of information in confidential version/non-confidential version of responses filed by the domestic industry and other interested parties with a view to streamline the investigation process.
- c) The Non-Confidential Version of the petition is not the exact replica of the Confidential Version as the same is not serially numbered. No index is provided in order to get the overview of the documents submitted with petition.
- d) In response to Costing Information of the application, the Domestic Industry has not furnished any information at all. The domestic industry has replied to all the questions as "Enclosed as Annexure 6". However, Annexure 6 has been claimed as confidential without any justification.
- e) Annual reports of the petitioner have been claimed as confidential without any grounds of justifications in the petition.

E.3. Examination by the Authority

15. With regard to confidentiality of information, Rule 8 of Anti-Subsidy Rules provides as follows:

"Confidential information. (1) Notwithstanding anything contained in subrule (1), (2), (3) and (7) of rule 7, subrule (2) of rule 14, subrule (4) of rule 17 and subrule (3) of rule 19 copies of applications received under subrule (1) of rule 6 or any other information provided to the designated authority on a confidential basis by any party in the course of investigation, shall, upon the designated authority being satisfied as to its confidentiality, be treated as such by it and no such information shall be disclosed to any other party without specific authorisation of the party providing such information.

(2) The designated authority may require the parties providing information on confidential basis to furnish nonconfidential summary thereof in sufficient details to permit a reasonable understanding of the substance of the confidential information and if, in the

opinion of a party providing such information, such information is not susceptible of summary, such party may submit to the designated authority a statement of reasons why summarization is not possible.

(3) Notwithstanding anything contained in subrule (2), if the designated authority, is satisfied that the request for confidentiality is not warranted or the supplier of the information is either unwilling to make the information public or to authorise its disclosure in generalised or summary form, it may disregard such information.

16. The Authority made available the 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.
17. Submissions made by the domestic industry and other opposing interested parties with regard to confidentiality to the extent considered relevant were examined by the Authority and addressed accordingly. Information provided by the interested parties on confidential basis was examined with regard to the sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. 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. The Authority also notes that all interested parties have claimed their business-related sensitive information as confidential.

F. OTHER MISCELLANEOUS ISSUES

F.1. Submissions by the Domestic Industry

18. The submissions made by the domestic industry are as follows:
 - i. The submission of the interested parties regarding imports being a necessity and demand-supply gap in the country, it is submitted that the Domestic Industry has been increasing its capacities at regular intervals. As a matter of fact, the interested parties themselves acknowledge this fact in their submissions. Therefore, it is fallacious to state that the imports were a necessity for the importers. The installed capacity has been increased by Domestic Industry from 65700 TPA to 160600 TPA in 2019 by setting up a new facility and also enhancing the capacity of the existing equipment.
 - ii. The response filed by the Government of Malaysia seems to pertain to some other product instead of the Product under Consideration. Question 5 in section B of the questionnaire response filed by the Government of Malaysia asks for the tariff schedule numbers which correspond to the ITC (HS) classification for the subject country. In response to the said question, the government of Malaysia has provided details relating to float glass and safety glass. No details relating to the subject goods been provided.
 - iii. In response to question number 7 in section B, the Government of Malaysia has provided the export quantity and value of the subject goods from Malaysia to India for the years 2014, 2015, 2016, 2017 and the POI. It may be noted that the said response

shows extraordinarily large quantities of exports of the subject goods from Malaysia to India in 2017, 2018 and Jan-Jun 2019. The said figures cannot be true for the Product under Consideration as even the total demand of the subject goods in the country is much lower than the volume of exports of subject goods from Malaysia to India mentioned in the response.

- iv. In relation to subsidies available to the Domestic Industry, it is submitted that the same is not the subject-matter of this investigation and, therefore, the Domestic Industry is not required to comment on the same. In any case, subsidy (if any) available to the Domestic Industry, does not justify or grant the license to producers in Malaysia to injure the Domestic Industry in India by channeling their subsidized imports into India.
- v. The submission of the interested parties that 84% of the imports are happening in SEZ, the Domestic Industry would like to submit that imports in DTA in the POI were around 77% of the total imports from Malaysia in 2018-19. Further, in 2019-20, while the imports have seen a significant spurt, the DTA imports remain to be major portion of the imports from Malaysia at 64%.
- vi. The interested parties have tried to relate the injury to furnace condition and quality issues. They have quoted improvement in financial performance for year 2018-19 but failed to relate the decline in profitability evident from the quarterly results for quarter ended on 31st December 2018 and quarter ended March 2019. Moreover, they have wrongly interpreted the comments made in the Annual report for year 2018-19 as relating to performance of first six months of year 2018-19 which actually relate to the period April to August 2019 i.e., after the POI.
- vii. With regard to the submissions relating to public interest, it is submitted that the interested parties have failed to provide any reason or instance as to how the levy of anti-subsidy duty will be against public interest. Even though there is no legal basis or obligation for the Authority to look into the public interest issues, the interested parties have miserably failed to demonstrate their claim that the imposition of countervailing duties will not be in larger public interest. On the contrary, the Domestic Industry submits that levy of duty will be in the public interest as it will allow the downstream user industry a continuous and reliable supply of subject goods.
- viii. As regards the submissions relating to injury parameters and their accuracy, Domestic Industry humbly submits that they have filed complete information which is true and correct. Therefore, the contention raised by interested parties in this regard is incorrect. It is further submitted that all the injury numbers and costing numbers have already been verified by the Authority from books of accounts of the producers. The detailed analysis of injury parameters is already on record and are not reported herein for the sake of brevity.

F.2. Submissions made by the producers/exporters/other interested parties

19. The submissions made by the other interested parties are as follows:

- i. The declaration provided in the petition is not as per the format prescribed by the DGTR. The certificate provided in the petition for the declaration that the applicant