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F. No. 7/12/2023-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

Dated: 28th December 2023

NOTIFICATION

FINAL FINDINGS

AD (SSR) Case No. - 06/2023

Subject: Sunset review investigation of anti-dumping duty on imports of “Ethylene Vinyl Acetate (EVA) Sheet for Solar Module” from China PR.

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A. BACKGROUND OF THE CASE

1. F. No. 7/12/2023-DGTR: M/s RenewSys India Pvt. Ltd. (hereinafter also referred to as “petitioner” or “applicant”) has filed an application before the Designated Authority (hereinafter referred to as the “Authority”), in accordance with the Customs Tariff Act, 1975 as amended from time to time (hereinafter referred as the “Act”) and the 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 referred as the Rules) for sunset review of anti-dumping investigation concerning the imports of **“Ethylene Vinyl Acetate (EVA) Sheet for Solar Module”** (hereinafter referred as the “subject goods” or “product under consideration”), originating in or exported from China (hereinafter referred to as the “subject country”).

2. The applicant has alleged likelihood of continuation or recurrence of dumping of the subject goods, originating and exported from the subject country, and consequent injury to the domestic industry and has requested for review and continuation of the anti-dumping duty imposed on the imports of the subject goods, originating in or exported from the subject country.
3. Section 9A(5) of the Act, *inter alia*, provides that anti-dumping duty imposed shall, unless revoked earlier, cease to have effect on expiry of five years from the date of such imposition and the Authority is required to review whether the expiry of duty is likely to lead to continuation or recurrence of dumping and injury. In accordance with the above, the Authority is required to review, on the basis of a duly substantiated request made by or on behalf of the domestic industry, as to whether the expiry of duty is likely to lead to continuation or recurrence of dumping and injury.
4. Rule 23(1B) of the Rules provides as follows:

“...any definitive anti-dumping duty levied under the Act shall be effective for a period not exceeding five years from the date of its imposition, unless the Designated Authority comes to a conclusion, on a review initiated before that period on its own initiative or upon a duly substantiated request made by or on behalf of the domestic industry within a reasonable period of time prior to the expiry of that period, that the expiry of the said anti-dumping duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry.”

5. Based on the duly substantiated application with *prima facie* evidence of likelihood of dumping and injury filed on behalf of the domestic industry in accordance with Section 9A(5) of the Act, read with Rule 23 of the Anti-dumping Rules, the Authority initiated the sunset review investigation vide Notification No. 7/12/2023-DGTR dated 20th September, 2023 and to examine whether the expiry of the said duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry and whether there is a need for continued imposition of antidumping duty in respect of the subject goods originating in or exported from China.
6. Earlier, the Authority initiated an antidumping investigation in respect of imports of the subject goods from China, Malaysia, Thailand, South Korea and Saudi Arabia on 04.04.2018, and after conducting the investigation recommended imposition of definite duty against imports from China, Malaysia, Thailand and Saudi Arabia vide Final Findings Notification No. 06/9/2018-DGAD dated 21.02.2019. On the basis of the recommendations made by the

Authority in the final findings, definitive anti-dumping duty was imposed by the Central Government vide Customs Notification No. 15/2019 – Customs (ADD) dated 29.03.2018.

7. The domestic industry, in its application stated that post imposition of duties, the imports from other countries subject to anti-dumping duty, i.e., Malaysia, Thailand and Saudi Arabia has significantly declined, with no imports in the POI or the year preceding the POI. They stated that the under the current circumstances, there is no likelihood of dumping or injury from the said countries. Thus, the domestic industry only requested for continuation of duties against China PR.
8. The scope of the present review covers all aspects of the previous investigation concerning the subject goods issued vide final finding No. 06/9/2018-DGAD dated 21.02.2019, which were implemented vide Customs Notification No. 15/2019 – Customs (ADD) dated 29.03.2018 subject to the fact that the present investigation is limited to imports of the subject goods from China PR.

B. PROCEDURE

9. The procedure described herein below has been followed by the Authority with regard to the subject investigation:
 - i. The Designated Authority, under the above Rules, received a written application from the applicant on behalf of the domestic industry, requesting sunset review of the anti-dumping duties earlier imposed and alleging continued dumping of “Ethylene Vinyl Acetate (EVA) Sheet for Solar Module”, originating in or exported from China PR.
 - ii. The Authority notified the embassy of China in India about the receipt of the sunset review of the anti-dumping application before proceeding to initiate the investigations in accordance with sub-rule (5) of Rule 5 *supra*.
 - iii. The Authority issued a public notice dated 20th September, 2023 published in the Gazette of India Extraordinary, initiating the anti-dumping investigation concerning imports of the subject goods.
 - v. The Authority sent a copy of the initiation notification to the embassy of China in India, known producers/exporters from China and the domestic industry as per the addresses made available by the applicant and requested them to make their views known in writing within 30 days of the initiation notification.
 - vi. The Authority sent exporter's questionnaires to elicit relevant information to the following known producers/exporters in China, (whose details were made available by the applicant) and gave them opportunity to make their views known in writing in accordance with the Rule 6(2) of the AD Rules.

SN	Details of producers from the Exporting Country
1	Hangzhou First Applied Material Co Limited
2	Changzhou Sveck Photovoltaic New Material Co Limited
3	Cybrid (Zhejiang) Technologies Inc.
4	Cybrid Technologies Inc.
5	Eversola Holding Co., Ltd
6	Toyota Daihatsu Engineering And Manufacturing Co
7	Changzhou Bbetter International Trading Co Limited
8	Tianjin Caida New Materials Technol
9	First Material Science Thailand Co Limited
10	Jiangsu Lushan New Materials
11	Ever Thriving New Energy Technology Co Limited
12	Changzhou Fufeng Material Technology Co Limited

vii. Only Changzhou Sveck Photovoltaic New Material Co Limited has filed their Questionnaire responses in the above matter.

viii. The Authority forwarded a copy of the initiation notification to the following known importers/users/user associations (whose names and addresses were made available to the Authority) of the subject goods in India and advised them to make their views known in writing within the time limit prescribed by the Authority in accordance with the Rule 6(4):

SN	Name of Importers
1	Aditya Clean Energy Systems Private Limited
2	Agrawal Renewable Energy Private Limited
3	Alpex Solar Private Limited
4	Ankur Traders And Engineers Private Limited
5	Australian Premium Solar India Private Limited
6	Bhagyanagar Energy And Telecom Private Limited
7	Bharat Electronics Limited
8	Bharat Heavy Electricals Limited
9	Central Electronics Limited
10	Citizen Solar Private Limited
11	Contendre Greenergy Private Limited
12	Cosmic Pv Power Private Limited
13	Credence Solar Panels Private Limited
14	Ecosi Energy Private Limited
15	Emmvee Photovoltaic Power Private Limited
16	Enkay Solar Power And Infrastructure Private Limited
17	Gautam Solar Private Limited
18	Genus Power Infrastructures Limited
19	Goldi Solar Private Limited

SN	Name of Importers
20	Goldi Sun Private Limited
21	Greenbrilliance Energy Private Limited
22	Har Solar Private Limited 1398
23	Harikrupa Solar And Engineering
24	Hbl Power Systems Limited
25	Himalayan Solar Private Limited
26	Hr Solar Solution Private Limited
27	Icon Solar En Power Technologies Private Limited
28	Indarka Energy Private Limited
29	Insolation Energy Private Limited
30	Integrated Batteries India Private Limited
31	Jain Irrigation Systems Limited
32	Jakson Engineers Limited
33	Jp Solar
34	Jyotitech Solar Llp
35	Kosol Energie Private Limited
36	Kratus Solar Solutions Private Limited
37	Lubi Electronics
38	M/S Ganesh Electricals Pvt. Ltd
39	M/S ITI Limited
40	M/S Urjastrot Enterprise Pvt Ltd
41	M/S. Aatmanirbhar Solar Pvt. Ltd.
42	M/S. Abhishek Solar Industries Pvt. Ltd
43	M/S. Ameya Solar & Semiconductor Pvt. Ltd
44	M/S. Bluebird Solar Pvt. Ltd
45	M/S. ECE (India) Energies Pvt. Ltd.
46	M/S. Fujiyama Power Systems Private Limited
47	M/S. Genus Innovation Limited
48	M/S. Innovative Solar Solutions
49	M/S. JJ PV Solar Pvt. Ltd
50	M/S. Nyalkaran Energy LLP
51	M/S. Raajratna Ventures Limited
52	M/S. Rajasthan Electronics And Instruments Limited (REIL)
53	M/S. Renewsys India Pvt. Ltd
54	M/S. SASA Energy LLP
55	M/S. Shanti Solar
56	M/S. Shivam Photovoltaics Private Limited
57	M/S. SUNBOND Energy Pvt. Ltd.
58	M/S. Sunfield Energy Private Ltd
59	M/S. Sunify Solar LLP
60	M/S. Suryakamal Energy Pvt. Ltd
61	M/S. The Wolt Techniques
62	M/S. Unique Sun Power LLP

SN	Name of Importers
63	Maglare Technologies Private Limited
64	Mehar Solar Technology Private Limited
65	Ms Renewsys India Private Limited
66	Mundra Solar Energy Limited
67	Mundra Solar Private Limited
68	Mundra Solar Pv Limitedahmedabad
69	Navitas Alpha Renewables Private Limited
70	Navitas Green Solutions Private Limited
71	Neety Euro Asia Solar Energ
72	Neety Euro Asia Solar Energy
73	Neosol Technologies Private Limited
74	Novasys Greenergy Private Limited
75	Novus Green Energy Systems Limited
76	Orb Energy Private Limited
77	Pahal Solar
78	Patanjali Renewable Energy Private Limited
79	Pennar Industries Limited
80	Perfectenergy C
81	Pixon Green Energy Private Limited
82	Plaza Power And Infrastructure C
83	Premier Energies Limited
84	Premier Energies Photovoltaic Private Limited
85	Premier Solar Systems Private Limited
86	Pv Power Technologies Private Limited
87	Radical Solar Private Limited
88	Rayzon Green Energie
89	Rayzon Green Energies
90	Redren Energy Private Limited
91	Renew Solar Energy (Jharkhand One) Private Limited
92	Renew Solar Energy Jharkhand One Private Limited
93	Renewables And Energy Conservatio
94	Renewsys India Private Limited
95	Ritika Systems Pvt. Ltd.
96	Rrg Energies Private Limited
97	Saatvik Green Energy Private Limited
98	Sael Solar Mfg Private Limited
99	Sahaj Solar Private Limited
100	Sanelite Solar Private Limited
101	Shivalik Green Energy Private Limited
102	Sirius Solar Energy Systems Private Limited
103	Solarium Green Energy Llp.
104	Solex Energy Limited
105	Sova Solar Limited

SN	Name of Importers
106	Spark Solar Technologies Llp
107	Spark Solar Technologies Private Limited
108	Sri Savitr Solar Private Limited
109	Sun N Sand Exim India Private Limited
110	Sunfuel Technologies Llp
111	Sunlong Energy Private Limited
112	Surana Solar Limited
113	Swelect Energy Systems Limited
114	Tata Power Solar Systems Limited
115	Topsun Energy Limited
116	Torios Solar
117	Udhaya Energy Photovoltaics Private Limited
118	Ujjaval Solar Power
119	Vedansh Infraenergy Private Limited
120	Vikram Solar Limited
121	Vikram Solar Limitedkolkata
122	Vikram Solar Private Limited
123	Vishakha Solar Films Private Limitedahmedabad
124	Waaree Energies Limited
125	Waaree Energies Ltdmumbai
126	Waaree Renewables Private Limited
127	Websol Energy System Ltd.
128	Zonje Solar Llp

- ix. None of the importers/users/user associations filed their questionnaire response in the matter. Only Waaree Energies Limited filed its post hearing submissions/representations.
- x. The Authority requested the interested parties to exchange non-confidential version of the evidence presented by them with other interested parties as per Rule 6 (7). The list of interested parties was uploaded on the website of the directorate.
- xi. The Authority has examined the information furnished by the domestic producer to the extent possible on the basis of guidelines laid down in Annexure III to work out the cost of production and the non-injurious price of the subject goods in India so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.
- xii. The period of investigation for the purpose of present investigation is from April 2022 to March 2023 (12 months). However, the injury investigation period will cover the data of previous three years, i.e., Apr 2019 – Mar 2020, Apr 2020- Mar 2021, Apr 2021 – Mar 2022 and POI.
- xiii. 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 and other

interested parties was conducted to the extent considered necessary for the purpose of the investigation.

- xiv. Non-injurious price has to be determined 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) so as to ascertain whether anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.
- xv. Transaction wise data was called from the Directorate General of Commercial Intelligence and Statistics (DGCI&S) for determination of volume and value of imports of the product concerned in India and the same has been considered by the Authority.
- xvi. The Authority held an oral hearing on 16th November, 2023 to provide an opportunity to the interested parties to present relevant information orally in accordance with Rule 6 (6). 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.
- xvii. A disclosure statement containing the essential facts in this investigation which forms the basis of the present final finding was issued to the interested parties on 21st December 2023. The post disclosure statement submissions received from the domestic industry and other interested parties have been considered, to the extent found relevant, in this final finding notification.
- xviii. Exporters, producers and other interested parties who have neither responded to the Authority, nor supplied information relevant to this investigation have been treated as non-cooperating interested parties.
- xix. ***in this final finding represents information furnished by an interested party on confidential basis, and so considered by the Authority under the Rules.
- xx. The exchange rate adopted by the Authority for the subject investigation for POI is 1 US\$ = Rs. 81.15.

C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

- 10. The product under consideration in the present investigation is same as defined in the original investigation which is as follows:

“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 most essential component which keeps glass, cell and backsheet integrated and support the module mechanically during its service life time.”

11. 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 a tubular or autoclave process mainly. The product under consideration is imported under HS codes 3920 1011, 3920 1019, 3920 1099, 3920 6190, 3920 6290, 3920 9919, 3920 9939, 3920 9999, 3920 9099. The HS codes are only indicative and the product description shall prevail in all circumstances.

C1. Submissions by other interested parties

12. None of the interested parties made any submission relevant for determination of the product under consideration and like article.

C3. Submissions by domestic industry

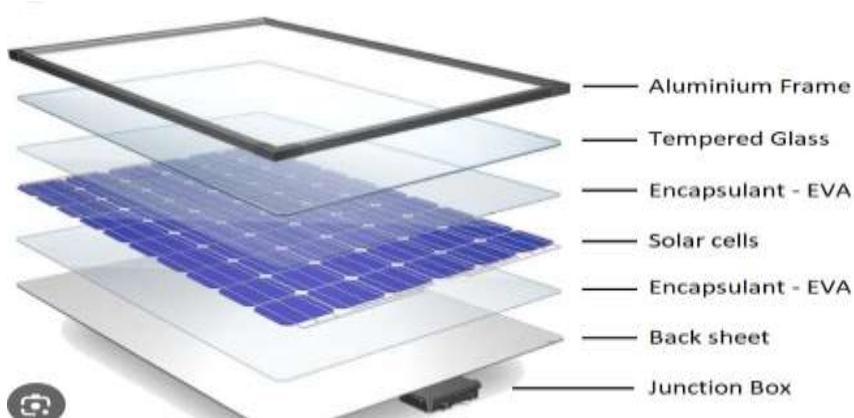
13. The submissions made by domestic industry are as follows:

- a. The present investigation being a sunset review investigation, the product under consideration remains same as defined in the previously conducted investigation.
- b. It is a settled law that the product under consideration, ordinarily, cannot be changed in a sunset review investigation.
- c. There is nothing on record which may even indicate any quality issue with the products supplied by the domestic producers.
- d. In terms of settled provisions of law and WTO precedents, it is the party leading an argument who bears the burden of proof of establishing the correctness of the argument so advanced. However, the importer has miserably failed to provide any evidence to substantiate its contention regarding the product under consideration.
- e. According to the domestic industry, there is no difference in the subject goods produced by them and that imported from the subject country. The subject goods produced by the domestic industry and the subject goods imported from the subject country are comparable in terms of characteristics such as physical and chemical characteristics, manufacturing process and technology, functions and uses, product specifications, distribution and market & tariff classification of the goods.

C3. Examination by the Authority

14. The product under consideration determined by the Authority in the original investigation is as follows:

"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 most essential component which keeps glass, cell and backsheet integrated and support the module mechanically during its service life time."



15. 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 a tubular or autoclave process mainly. The subject goods are used as a component in solar photovoltaic panels and solar thermal applications. The product under consideration is imported under HS codes 33920 1011, 3920 1019, 3920 1099, 3920 6190, 3920 6290, 3920 9919, 3920 9939, 3920 9999, 3920 9099. The HS codes are only indicative and the product description shall prevail in all circumstances.
16. With regard to like article, Rule 2(d) of the Anti-Dumping Rules provides as under:

"like article" means an article which is identical or alike in all respects to the article under investigation for being dumped in India or in the absence of such article, another article which although not alike in all respects, has characteristics closely resembling those of the articles under investigation;
17. Therefore, after considering the information on record, the Authority holds the product under consideration is the same as defined in the original investigation as well as the initiation notification. The Authority further holds that there is no material difference in product under consideration exported from the subject country and the product produced by the Indian industry. The product under consideration produced by the domestic industry is comparable to the imported subject product in terms of physical characteristics, production technology & manufacturing process, functions & uses, product specifications, distribution & marketing. The two are technically and commercially substitutable.
18. The Authority holds that the product manufactured by the domestic industry and the subject goods imported into India from the subject country are like articles within the meaning of the anti-dumping rules.

D. DOMESTIC INDUSTRY AND STANDING

D1. Submissions by other interested parties

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

- i The standing of the applicant as domestic industry is in itself incorrect and the initiation of the present investigation without thorough verification is incorrect in law.
- ii The capacity and production data provided for the other producers clearly suggests that with extremely high production and capacity, specifically in the POI and recent years, other domestic producers are manufacturing a significant portion of the total production in India. However, the applicant appears to have selectively reported capacity and production in a manner to only include the applicant as the domestic industry and not the other producers. Hence, the same ought to be verified by the Hon'ble Designated Authority and is likely to lead to the conclusion that the applicant is less than 25% of the total domestic production in India and do not constitute a 'major proportion' of the domestic production in India. This clearly establishes that the claim of the applicant is erroneous, misleading and incorrect.

D2. Submissions by domestic industry

20. The submissions made by the domestic industry are as follows:

- i The application for the continued imposition of anti-dumping duty has been filed by M/s RenewSys Renewable Pvt. Ltd. and supported by M/s Vishakha Renewables Pvt. Ltd., Navitas Alpha Renewables Pvt. Ltd., Alishan Greem Energy Pvt. Ltd., Enerlite Solar Films India Private Limited, Filmtec Solar Private Limited, Pixon Greem Energy Private Limited, and ECAP Greentec Pvt. Ltd.
- ii The production of the applicant constitutes "a major proportion" of total Indian production in terms of the rules. In addition, the production of the applicant and supporters have significant majority in the total Indian Production.
- iii The applicant has not imported the subject goods from subject country during the POI. The applicant is not related (either directly or indirectly) to any exporter or importer of product under consideration in the subject country. Thus, the applicant is eligible domestic industry under Rule 2(b) of the AD Rules.
- iv The standing requirement contained in Rule 5(3) are not even applicable on sunset review proceedings. Rule 5 is not applicable vis-à-vis sunset review proceedings. Kind attention of the Authority is invited to Rule 23(3) which states as under:

“(3) The provisions of rules 6, 7, 8, 9, 10, 11, 16, 17, 18, 19, and 20 shall be mutatis mutandis applicable in the case of review.”

- v. The reliance placed by the importer on WTO findings of *Russia – Commercial Vehicles and EC – Fasteners (China)* also do not have any merit since there is no exclusion of any domestic producer in the present case. Unlike those cases, where a particular domestic producer was specifically excluded from the investigation, the relevant and necessary data of all domestic producers is on record in the present case. In fact, the production figures used in the application to compute standing are taken from the support letters of such domestic producers. In such a situation, there cannot be any apprehension regarding the correctness of the production data of the domestic producers or the standing of the applicant.

D3. Examination by the Authority

21. 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”

22. The application in the present case has been filed by M/s RenewSys Renewable Pvt. Ltd. and supported by M/s Vishakha Renewables Pvt. Ltd., Navitas Alpha Renewables Pvt. Ltd., Alishan Greem Energy Pvt. Ltd., Enerlite Solar Films India Private Limited, Filmtec Solar Private Limited, Pixon Greem Energy Private Limited, and ECAP Greentec Pvt. Ltd.

23. As regards the submission of the importer that the domestic industry has selectively reported the capacity and production data to affect the standing, the Authority notes that the total Indian production has been computed after taking into account the production reported by the supporters in their support letter and estimated production of other Indian producers. The Authority notes that none of the interested party has submitted any information to dispute the standing of the domestic industry.

24. On the basis of the evidences on record, the Authority notes that the production of the applicant constitutes around 35% of the Indian production. Accordingly, the Authority holds that the applicant satisfied the requirement of standing under Rule 5(3) and constitutes domestic industry within the meaning of Rule 2(b).

E. CONFIDENTIALITY

E1. Submissions by other 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 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.
- iv. The applicant has not been consistent with respect to claims of confidentiality when compared to the standards of disclosure adopted in the original investigation.

E2. Submissions by the domestic industry

26. 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 sufficient non-confidential version of the application. None of the interested party has been able to point out any specific instance of information which has been claimed confidential and confidentiality of which is not justified under the rules.
- iii. The opposing parties have not been able to point out a single instance of deviation from the law/trade notice, let alone any material lapse by the domestic industry.
- iv. The exporter in the present case has not filed its questionnaire response in terms of Trade Notice No. 10/2018. Most of the information required in the Trade Notice is either not been given by the exporter or is not as per the Trade Notice.
- v. That the responding exporter has failed to fulfill their obligations under the Indian law by not providing the meaningful summary of the response to exporters' questionnaire. It is further submitted that they have kept all the volume related information confidential. 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 petitioner also, requested the Hon'ble Designated Authority to disregard the submissions of the interested parties and also to reject the response of exporters and deny them the individual treatment.

E3. Examination by the Authority

27. The Authority requested the interested parties to share the non-confidential version of the information submitted by them with other interested parties as per Rule 6(7).
28. With regard to confidentiality of information Rule 7 of Anti-dumping Rules provides as follows:

“Confidential information”

- (1) Notwithstanding anything contained in sub-rules (2), (3) and (7) of rule 6, sub-rule (2) of rule 12, sub-rule (4) of rule 15 and sub-rule (4) of rule 17, the copies of applications received under sub-rule (1) of rule 5, 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 authorization of the party providing such information.*
- (2) The designated authority may require the parties providing information on confidential basis to furnish non-confidential summary thereof 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 sub-rule (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 a generalized or summary form, it may disregard such information.”*

29. The WTO Agreement on Anti-Dumping provides as follows with regard to confidentiality of information-

“Article-6.5 Any information which is by nature confidential (for example, because its disclosure would be of significant competitive advantage to a competitor or because its disclosure would have a significantly adverse effect upon a person supplying the information or upon a person from whom that person acquired the information), or which is provided on a confidential basis by parties to an investigation shall, upon good cause shown, be treated as such by the authorities. Such information shall not be disclosed without specific permission of the party submitting it.

Article-6.5.1 The authorities shall require interested parties providing confidential information to furnish non-confidential summaries thereof. These summaries shall be in sufficient detail to permit a reasonable understanding of the substance of the information

submitted in confidence. In exceptional circumstances, such parties may indicate that such information is not susceptible of summary. In such exceptional circumstances, a statement of the reasons why summarization is not possible must be provided.

Article-6.5.2 If the authorities find that a request for confidentiality is not warranted and if the supplier of the information is either unwilling to make the information public or to authorize its disclosure in generalized or summary form, the authorities may disregard such information unless it can be demonstrated to their satisfaction from appropriate sources that the information is correct.

Footnote to Article 6.5.2 (footnote 18 of the WTO Agreement on Anti-Dumping) provides as follows— Members agree that requests for confidentiality should not be arbitrarily rejected.”

30. 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 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 / information's / submissions submitted by various interested parties in the form of public file.

F. MISCELLANEOUS SUBMISSIONS

F1. Submissions by other interested parties

31. The submissions made by the other interested parties are as follows:
 - i. That the application filed by the domestic industry is not in the form and manner prescribed by the Authority. Further, the Authority has not evaluated the petition properly in terms of Article 5.3 of the WTO Anti-Dumping Agreement read with Rule 5(3) of the AD Rules and therefore, the investigation needs to be terminated.
 - ii. Supporting companies are not eligible supporters as per Trade Notice No. 13/2018 and 14/2018 as they have not filed information as required under the said Trade Notices.
 - iii. In the present scenario, imposition of duty on a fixed basis is not only unjustified but also unfair and unduly burdensome. It is an admitted position that the domestic industry cannot cater to the demand in the country and the demand of the product for downstream manufacturers, which are making valuable contributions in ‘Aatmanirbhar Bharat’ is increasing. The injury, if any, is restricted to the extent of the capacity of the domestic

industry and as a fixed duty impacts such import quantities which are higher than the capacity of the domestic industry it unfairly imposes anti-dumping duties on products which do not compete with the domestic industry and provides arbitrary and unfair protection to the domestic industry.

- iv. That the certain information provided by the domestic industry in the narrative part of the petition is inconsistent with the Proforma IVA enclosed with the petition. Further, interested parties requested the Authority to recheck the numbers and call domestic industry to provide correct numbers.
- v. The domestic industry is not able to meet the strict quantitative and quality parameters of the user industry and therefore, users are compelled to import specialized grades which are not adequately supplied by the domestic industry.

F2. Submissions by the domestic industry

32. The submissions made by the domestic industry are as follows:

- i. The domestic industry has only received the questionnaire response by one party namely M/s Changzhou Sveck Photovoltaic New Material Co., Ltd. This is despite the specific direction of the Authority through email dated 15.11.2023 directed towards interested parties, directing them to share their submissions/responses with the domestic industry. In the absence of any response by interested parties, the domestic industry presumes that no other party has filed any submission/responses. In the event any such submission/response has been received, the same cannot be taken on record since they have not been shared with the domestic industry in accordance with the prescribed procedure.
- ii. The only participating importer, M/s Waree Energies Ltd., has not filed their questionnaire response. Subsequent to a preliminary objection raised by us, during the hearing on 16.11.2023, the said importer stated that they were not able to file the questionnaire response because of certain pressing concerns of the company. This is not acceptable. Moreover, the conduct of the said importer clearly demonstrates that they are neither serious about the investigation process nor towards the sanctity of the rules and the procedures prescribed by the Authority.
- iii. The importer has filed their written submissions after the deadline provided by the Authority. This further proves their scant regard for the investigation process or the dignity of the office of the DGTR.
- iv. As regards the submission made by the importer regarding the change in the form of duty, the domestic industry submits that the only reason given by the importer for such a request is alleged demand-supply gap in the country. However, the facts on record clearly establish that there is no demand-supply gap in the country. In fact, the capacities available with the domestic producers exceed the demand of the subject goods in the country. In

any case, the importer has not indicated as to how any perceived demand-supply gap can be a good ground for seeking change in the mode of duty.

- v. That the application filed by domestic industry is fully in accordance to the act and rules and also as per the prescribed format. Therefore, the submissions of the interested parties that the application is not as per format needs to be rejected.

F3. Examination by the Authority

33. As regards the submission of the domestic industry about not filing questionnaire response during the investigation, and also not filing written/legal submissions within time, the Authority notes that no questionnaire response has been filed by importer before Authority. However, legal submissions submitted by the importer have been examined by the Authority.
34. As regards the submission that the supporters have not provided information as per Trade Notice No. 13/2018 and 14/2018, the Authority notes that the supporters have provided information in terms of the Trade Notice No. 04.2021 dated 16.04.2021, which lays down the essential information required to be furnished by the supporters. Thus, the information filed by the supporters is in terms of the Trade Notice issued by the Authority and is liable to be accepted.
35. As regards the argument of the responding parties that the petition is deficient and therefore the investigation needs to be terminated, the Authority notes that the present investigation was initiated on the basis of *prima facie* evidence furnished by the domestic industry showing dumping, injury and causal link in accordance with the Act and Rules. The Authority has also called for additional information wherever required, and verified the information furnished by the domestic industry.
36. As regards the issue of there being a demand supply gap in the country, the Authority notes from the evidences on record that the current capacities of the subject goods in the country far exceeds the demand of the subject goods. Thus, the contentions raised in this regard are contrary to facts on record.
37. As regards the request of the importer regarding the change in the form of duty from fixed duty to reference price-based duty, the Authority notes that the said importer has not provided any acceptable reason for such request except for its claim of demand-supply gap in the country. As noted above, there is no demand-supply gap of the subject goods in the country.
38. As regards the submission of the importer regarding the domestic industry not being able to meet qualitative parameters of the specialised grades leading to importers being forced to import such grades, the Authority notes that the importer has not substantiated its submission with any evidence. Only generalised statements have been made by the importer and even the details of the alleged 'specialised grades' which domestic industry is allegedly not able to supply have not been specified.

G. NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN

G1. Normal Value

39. Under Section 9A(1)(c) of the Act, normal value in relation to an article means:

“(c) “normal value”, in relation to an article, means –

(i) the comparable price, in the ordinary course of trade, for the like article when destined for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6); or

(ii) when there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either-

(a) comparable representative price of the like article when exported from the exporting country or territory to an appropriate third country as determined in accordance with the rules made under sub-section (6); or

(b) the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6):

Provided that in the case of import of the article from a country other than the country of origin and where the article has been merely transhipped through the country of export or such article is not produced in the country of export or there is no comparable price in the country of export, the normal value shall be determined with reference to its price in the country of origin.”

G2. Submissions by other interested parties

40. The other interested parties have submitted as follows with regards to normal value, export price and dumping margin.

- a. Designation of China PR as a Non-Market Economy (NME) is not in accordance with applicable laws and procedures.

- b. The relevant provision in Section 15 of China's accession protocol which allowed for treatment of China PR as an NME has expired on 11th December, 2016. Therefore, there is currently no provision prevailing which allows the Authority to treat China PR as an NME in any investigation.
- c. Even if the Authority determines that China PR is a non-market economy for the purpose of this investigation, the Authority cannot directly resort to calculating the normal value based on the third methodology in Paragraph 7 of Annexure I to the Rules (i.e., *on any other reasonable basis*).
- d. The Authority must first attempt to determine the normal value based on; (i) price or constructed value in a market economy third country, or (ii) the price from such a third country to other countries, including India. Only if it is not possible to determine normal value based on these two methods, it can be determined on any other reasonable basis.
- e. Decision of the Hon'ble Supreme Court of India in the case of Shenyang Matsushita, 2005 (181) ELT 320 (SC) also supports the view that the Authority must proceed to determine normal value on any other reasonable basis only if it has exhausted the first two methods.
- f. There is no reason provided in the petition as to why the Authority cannot calculate the normal value based on the first two methods.
- g. The information provided by the domestic industry regarding the calculation of normal value has been kept entirely confidential, and it is therefore not possible for the respondents to answer any of the claims in that regard.
- h. The dumping margin provided by the domestic industry should not be relied upon without any verification from the Authority.

G3. Submissions by the domestic industry

- 41. The domestic industry has submitted as follows with regard to the normal value, export price and dumping margin.
 - a. China PR should be treated as an NME in accordance with Article 15(a)(i) of China's Accession Protocol and the normal value should be determined in terms of Annexure I, Rule 7 of the Rules.
 - b. Paragraph 8 of Annexure I to the Rules leaves no choice to the Authority but to presume that China is an NME, unless the exporters prove otherwise. Therefore,

regardless of the expiry of Section 15(a)(ii) of China's accession protocol, the Authority is bound by Paragraph 8 to presume that China is an NME.

- c. Market economy status is not automatic upon the expiry of Section 15(a)(i), but rather, it would require China's compliance with the other provisions of Section 15 of the Accession Protocol.
- d. The market economy claim of the exporters should not be accepted, as there is significant government intervention in several important sectors of the Chinese economy, warranting the maintenance of non-market economy status of China PR.
- e. 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.
- f. The market economy claim of the producers from China PR was rejected on the same basis in several recent investigations.
- g. Market economy status cannot be given unless the responding Chinese exporters establish that the actual purchase prices of major inputs substantially reflect market values.
- h. Market economy treatment must be rejected if Chinese exporters are unable to establish that their books are consistent with International Accounting Standards.
- i. It is not for the Authority to establish that the responding companies are operating under market economy environment. But it is for the responding Chinese exporters to establish that they are operating under market economy conditions.
- j. 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 has not filed the response, the claim for market economy status must be rejected.
- k. The normal value in China PR can thus be determined on the basis of cost of production in India, duly adjusted, including selling, general and administrative expenses and profit as per the consistent practice of the DGTR.

G4. Examination by the Authority

42. The Authority sent questionnaires to the known producers / exporters from the subject country, advising them to provide information in the form and manner prescribed by the Authority. Only, the following producer has filed response to the exporter's questionnaire:

- i. Changzhou Sveck Photovoltaic New Material Co., Ltd.

G4.1. Determination of normal value

G4.1.2 Examination of Market Economy Treatment

43. The Authority sent questionnaires to the known producers / exporters from the subject country, advising them to provide information in the form and manner prescribed by the Authority. The Authority notes that none of the producers/exporters have filed a response to the relevant questionnaire to claim market economy treatment.

G4.1.3 Normal value for China PR

44. Article 15 of China's Accession Protocol to the WTO provides as follows:

“Article VI of the GATT 1994, the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (“Anti-Dumping Agreement”) and the SCM Agreement shall apply in proceedings involving imports of Chinese origin into a WTO Member consistent with the following:

(a) In determining price comparability under Article VI of the GATT 1994 and the Anti-Dumping Agreement, the importing WTO Member shall use either Chinese prices or costs for the industry under investigation or a methodology that is not based on a strict comparison with domestic prices or costs in China based on the following rules:

(i) If the producers under investigation can clearly show that market economy conditions prevail in the industry producing the like product with regard to the manufacture, production and sale of that product, the importing WTO Member shall use Chinese prices or costs for the industry under investigation in determining price comparability;

(ii) The importing WTO Member may use a methodology that is not based on a strict comparison with domestic prices or costs in China if the producers under investigation cannot clearly show that market economy conditions prevail in the industry producing the like product with regard to manufacture, production and sale of that product.

(b) In proceedings under Parts II, III and V of the SCM Agreement, when addressing subsidies described in Articles 14(a), 14(b), 14(c) and 14(d), relevant provisions of the SCM Agreement shall apply; however, if there are special difficulties in that application, the importing WTO Member may then use methodologies for identifying and measuring the subsidy benefit which take into account the possibility that prevailing terms and conditions in China may not always be available as appropriate benchmarks. In applying such methodologies, where practicable, the importing WTO Member should adjust such prevailing terms and conditions before considering the use of terms and conditions prevailing outside China.

(c) The importing WTO Member shall notify methodologies used in accordance with subparagraph (a) to the Committee on Anti-Dumping Practices and shall notify methodologies used in accordance with subparagraph (b) to the Committee on Subsidies and Countervailing Measures.

(d) Once China has established, under the national law of the importing WTO Member, that it is a market economy, the provisions of subparagraph (a) shall be terminated provided that the importing Member's national law contains market economy criteria as of the date of accession. In any event, the provisions of subparagraph (a)(ii) shall expire 15 years after the date of accession. In addition, should China establish, pursuant to the national law of the importing WTO Member, that market economy conditions prevail in a particular industry or sector, the non-market economy provisions of subparagraph (a) shall no longer apply to that industry or sector.

45. The applicant has relied upon Article 15(a)(i) of China's Accession Protocol as well as para 7 of the Annexure I. The applicant has claimed that producers in China PR must be asked to demonstrate that market economy conditions prevail in their industry producing the like product with regard to the manufacture, production and sale of the product under consideration. It has been stated by the applicant that in case the responding Chinese producers are not able to demonstrate that their costs and price information are market-driven, the normal value should be calculated in terms of provisions of Para 7 and 8 of Annexure- I to the Rules.
46. It is noted that while the provision contained in Section 15 (a)(ii) has expired on 11.12.2016, the provision under Article 2.2.1.1 of WTO Anti-dumping Agreement read with the obligation under Section 15(a)(i) of the Accession Protocol require criterion stipulated in paragraph 8 of Annexure I of the Rules to be satisfied through the information/data to be provided in the supplementary questionnaire on claiming market economy treatment. It is noted that since the responding producers/exporters from China PR have not submitted response to the supplementary questionnaire the normal value computation is required to be done as per the provisions of paragraph 7 of Annexure I of the Rules.
47. As none of the producers from China PR have claimed determination of normal value on the basis of their own data/information, the normal value has to be determined in accordance with paragraph 7 of Annexure I of the Rules, which reads as under:

"In case of imports from non-market economy countries, normal value shall be determined on the basis of the price or constructed value in a market economy third country, or the price from such a third country to other countries, including India, or where it is not possible, on any other reasonable basis, including the price actually paid or payable in India for the like product, duly adjusted, if necessary, to include a reasonable profit margin. An appropriate market economy third country shall be selected by the designated authority in a reasonable manner [keeping in view the level of development of the Country concerned and the product in question] and due account shall be taken of any reliable information made available at the time of the selection. Account shall also be taken within time limits; where appropriate, of the investigation if any made in similar matter in respect of any other market economy third country. The parties to the investigation shall be informed without unreasonable delay the aforesaid selection of the market economy third country and shall be given a reasonable period of time to offer their comments."

48. The Authority notes that under the provisions of para (7) of Annexure I, the normal value may be determined on the basis of price or constructed value in a third country, or the price from such country to other countries, including India. However, when such basis is not

possible, only then the Authority can determine normal value on any other reasonable basis, including the price paid or payable in India.

49. As per paragraph 7 of Annexure I to the Rules, the Authority may move to the third method of determining normal value on any reasonable basis, when it has exhausted the first method, that is, price or constructed value in third country, and second method, that is, price from third country to other countries, including India. However, it is noted that no information/evidence has been provided by the parties for the construction of the normal value on the basis of the first two methods. In the absence of the above information/evidence, it is not possible for the Authority to determine normal value on the basis of the first or second method. Therefore, the Authority has decided to construct normal value based on the third method, i.e., *on any other reasonable basis including price paid or payable in India*.
50. Thus, the normal value has been considered on the basis of price paid or payable in India, duly adjusted to include profit, which has been arrived at considering cost of production in India, after addition for selling, general & administrative expenses and reasonable profits. The Authority has thus constructed the normal value based on the optimised cost of production, considering prices of major raw materials and other costs paid in India.

G4.2 Determination of export price

G4.2.1 Export price for cooperating exporter/producer

Changzhou Sveck Photovoltaic New Material Co., Ltd.

51. M/s Changzhou Sveck Photovoltaic New Material Co., Ltd. (“Sveck”) is a producer of the subject goods in China PR. Sveck has exported the subject goods directly to un-related customers in India.
52. It is noted that during the POI, Sveck has exported *** MT of PUC directly to unrelated customers in India. Sveck has claimed adjustments on account of ocean freight, insurance, inland transportation, port and other related expenses and credit cost, which have been allowed by the Authority after due verification. Further, the Authority has also made appropriate adjustment for bank charges. Accordingly, the export price for the subject goods at ex-factory level has been arrived at and shown in the dumping margin table below.

G4.2.2 Export price non-cooperating producers/exporters from China PR

53. The export price for all other producers and exporters that have not participated in the present investigation has been arrived at on the basis of facts available.

G4.3 Determination of Dumping Margin

54. Considering the normal value and export price for the subject goods, the dumping margin for the subject goods from the subject country is determined as follows:

DUMPING MARGIN TABLE

SN	Name of Producer	Currency / Unit	CNV	Export Price	Dumping Margin	Dumping Margin (%)	Dumping Margin (Range)
1.	Changzhou Sveck Photovoltaic New Material Co., Ltd.	USD/MT	***	***	***	***%	0-10
2.	Non-cooperative / residual exporters	USD/MT	***	***	***	***%	20-30

55. The dumping margin is more than *de-minimis* for all the producers/exporters from China PR.

H. EXAMINATION OF INJURY AND CAUSAL LINK

56. Rule 11 of the Rules read with Annexure-II provides that an injury determination shall involve examination of factors that may indicate injury to the domestic industry, "*.... taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles...* ". In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.

57. Rule 23 of the Rules provides that the provisions of Rule 6,7,8,9,10,11,16,18, 19 and 20 shall apply *mutatis mutandis* in case of a review. The Authority in its examination has evaluated the injury parameters which are required under Rule 11 and Annexure II of the Rules and has also examined as to whether the expiry of duty is likely to lead to continuation or recurrence of dumping and injury.

H1. Submissions by other interested parties

58. Following submissions have been made by the other interested parties with regard to injury suffered by the domestic industry and the causal link.

i. Imports from China PR has not caused injury to the domestic industry. Further, any injury to the domestic industry during the POI is because of COVID-19 and other factors and not because of imports from subject country.

- ii. That the domestic industry has failed to demonstrate that they are suffering injury either price or volume. It is further submitted that the volume and price related parameters shown improvement over the injury investigation period. This shows that domestic industry is doing well and there was no negative impact due to imports from subject country.
- iii. That the Authority should examine if injury claimed by the domestic industry was solely due to imports or was it due to reasons other than imports from the subject country. If it is concluded that injury was due to other factors, the Authority is requested to terminate the present review.
- iv. Price undercutting is one of the most important parameters to establish causal relationship between injury caused to the domestic industry by imports from subject country. However, it does not form the basis for determination of injury and shall not be seen in isolation. It has to be seen in light of overall performance of the domestic industry, whether it is resulting in losses.
- v. The profitability of the petitioner has improved during the period of investigation as compared to the base year 2019-20. It is to be noted that the period 2020-21 and 2021-22 was the abnormal period affected by COVID. Therefore, the unusual performance of the petitioner should not be considered during that period. The comparison must be made as compared to the base year 2019-20 which clearly shows that the performance of the domestic industry has improved significantly. Thus, there is no injury to the domestic industry.
- vi. That if the domestic industry is suffering from injury (if any), it is on account of other parameters like contraction in demand, decline in exports of the domestic industry and exporters from China cannot be blamed for that.

H2. Submissions by the domestic industry

59. The submissions of the domestic industry with regard to injury and causal link are reproduced below:

- a. That the landed value of the subject goods from China is substantially lower as compared to the cost and selling price of the domestic industry.
- b. The positive undercutting clearly indicates the adverse price pressure on the domestic industry.
- c. The share of imports from China PR in total demand has significantly increased. Due to dumped imports, China has acquired significant market share in demand despite idle capacities with the domestic producers.

- d. That dumping margins are significantly positive from the data on record, and therefore, there is clear likelihood of ever intensified dumping and increase in the dumped imports of the imported subject goods in India from China in the event of cessation of Anti-dumping duty.
- e. The domestic industry is still suffering losses because of low price imports from exporters of the subject country. It is further submitted that because of low priced imports, the domestic industry is not recovering its full cost despite its best efforts, the low price import from the subject country has created significant price pressure on the domestic industry.
- f. The domestic industry has submitted that since causal link has already been established in the original investigation, the Authority is required to examine whether cessation of anti-dumping duty would lead to continuance or recurrence of dumping and injury.
- g. The Authority would appreciate from the data on record that the imports are already coming at dumped prices which are causing injury to the domestic industry. However, the existing anti-dumping duties are acting as a safety net, protecting the domestic producers from suffering losses. If the existing anti-dumping duties are allowed to expire, the same would lead to causing significant financial damage to the domestic producers to an extent where the domestic producers shall be forced to shut shop on account of non-remunerative imports.
- h. This situation clearly depicts the price pressure on the domestic industry wherein if they don't produce the subject goods their fixed costs will increase substantially, and their losses would also increase.

H3. Examination by the Authority

- 60. The Authority has taken note of the submissions made by the interested parties. Annexure-II of the Anti-Dumping Rules provides for objective examination of both (a) the volume of dumped imports and the effect of the dumped imports on prices in domestic market for the like articles; and (b) the consequent impact on domestic producers of such products.
- 61. According to Section 9(A)(5) of the Customs Tariff Act, 1975, anti-dumping duty imposed shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition, provided that if the Central Government, in a review, is of the opinion that the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury, it may, from time-to-time, extend the period of such imposition for a further period of five years and such further period shall commence from the date of the order of such extension.
- 62. In consideration of the various submissions made by the interested parties in this regard, the Authority has examined the continuation of injury, if any, to the domestic industry before

proceeding to examine the likelihood of dumping and injury on account of imports from the subject country in the event of cessation of anti-dumping duty.

63. The Authority notes that it is not necessary that all parameters of injury show deterioration. Some parameters may show deterioration, while some others may not. The Authority has to consider all injury parameters and, thereafter, conclude whether injury to the domestic industry continues, or recur, in case the antidumping duty is ceased. The Authority has examined the injury parameters objectively considering the facts and arguments submitted by the domestic industry and other interested parties.

64. The Authority has taken note of various submissions made by the domestic industry and other interested parties on injury and causal link and analyzed the same considering the facts available on record and applicable laws. The injury analysis made by the Authority in the succeeding paras *ipso facto* addresses the submissions made by the domestic industry and other interested parties.

H3.1. Volume effect of dumped imports on domestic industry

65. 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 the DGCI&S import data.

a. Assessment of Demand / Apparent Consumption

66. Demand has been considered as the sum of domestic sales of all the domestic producers and the imports from all the countries. The apparent demand/consumption of the subject goods shows a positive trend throughout the injury period as can be seen from the table below:

Particulars	UoM	2019-20	2020-21	2021-22	POI
Import from Subject Country (China PR)	MT	8,343	4,805	8,091	10,528
Imports from other countries subject to ADD	MT	417	479	1	-
Imports from other countries	MT	315	946	1,928	2,996
Total Imports	MT	9,075	6,229	10,019	13,525
Sales of domestic industry	MT	***	***	***	***
Sales of Other Domestic Producers	MT	***	***	***	***
Total Indian Domestic Sales	MT	***	***	***	***
Trend	Indexed	100	122	149	192
Demand	MT	***	***	***	***
Trend	Indexed	100	97	131	171

Imports from China in Demand	%	***%	***%	***%	***%
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67. The demand of the subject goods has increased throughout the injury investigation period. However, the imports from China as a percentage of total demand has come down, but still remain significant.

b. Import volume from the subject country

68. The effects of the volume of dumped imports from China has been examined by the Authority in the following table:

Particulars	UoM	2019-20	2020-21	2021-22	POI
Imports from China	MT	8,343	4,805	8,091	10,528
Imports from Other Countries	MT	315	946	1,928	2,996
Total Imports	MT	8,658	5,751	10,019	13,525
Sales of the domestic industry	MT	***	***	***	***
Trend	Indexed	100	93	110	127
Sales of other domestic producers	MT	***	***	***	***
Trend	Indexed	100	162	204	282
Total Indian sales (Domestic)	MT	9,836	12,035	14,701	18,905
Trend	Indexed	100	122	149	192
Demand of the subject goods in India	MT	18,494	17,786	24,720	32,430
Trend	Indexed	100	96	134	175
Total PUC Production (Applicant)	MT	***	***	***	***
Trend	Indexed	100	93	113	126
Production – other producers	MT	***	***	***	***
Trend	Indexed	100	130	188	310
Total Indian Production	MT	10,057	10,941	14,587	20,639
Trend	Indexed	100	109	145	205
Imports from China in relation to					
Total Indian Production	%	***	***	***	***
Trend	Indexed	100	53	66	61
Total Indian Consumption / Demand	%	***	***	***	***
Trend	Indexed	100	60	73	71

69. It is seen that the volume of dumped imports of the subject goods has decreased in 2020-21, with increase in 2021-22 and significant increase in the POI. The volume of import in relative terms has also seen significant increase. The import volume in relation to total Indian

production and the demand/consumption has decreased as compared to the base year but has remained at a substantial level.

H3.2. Price effect of dumped imports on domestic industry

70. In terms of Annexure II (ii) of the Rules, the Authority is required to consider the effect of the dumped imports on domestic prices in terms of price undercutting, price suppression and price depression, if any.

A. Price Undercutting

71. With regard to the effect of dumped imports on prices, the Authority is required to consider whether there has been a significant price undercutting by the dumped imports as compared to the price of the like product in India or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. In this regard, a comparison has been made between the landed value of the product from China and the average selling price of the domestic industry, net of all rebates and taxes, at the same level of trade. The prices of the domestic industry were considered at ex-factory levels.

Particulars	UoM	POI
Landed price of imports (China)	Rs/MT	3,08,112
	(Trend)	179
Net selling price of domestic industry	Rs/MT	***
	(Trend)	186
Price undercutting (China)	Rs/MT	***
	(Trend)	430
Price undercutting (China)	%	***%
	(Trend)	240
Price undercutting (China)	Range	0-10

72. The Authority notes that the landed value of the subject goods from China is significantly below the net sales realization of the domestic industry.

B. Price Suppression and Depression

73. In order to determine whether the dumped imports are depressing the domestic prices or whether the effect of such imports is to suppress prices to a significant degree and prevent price increases which otherwise would have occurred, the Authority considered the changes in the prices and landed value over the injury period.

Particulars	UoM	2019-20	2020-21	2021-22	POI
Cost of Sales	Rs/MT	***	***	***	***
Trend	Indexed	100	104	167	184

Selling Price	Rs/MT	***	***	***	***
Trend	Indexed	100	135	199	186
Landed Value from Subject Country	Rs/MT	1,71,830	2,69,966	3,29,499	3,08,112
Trend	Indexed	100	157	192	179
Landed value with ADD	RS/MT	2,16,192	3,14,417	3,76,304	3,55,991

74. It may be seen that the landed value from China is below the selling price and cost of the domestic industry except for 2020-23 and 2021-22. The landed value of the goods imported from China were below the selling price and the cost of the domestic industry in the POI. While the landed value computed above is without taking into consideration the applicable anti-dumping duties, the above examination indicates a likelihood that in the event of cessation of the anti-dumping duties, the domestic industry is likely to move into a loss-making situation.

H3.3. Economic parameters of the domestic industry

75. 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. The anti-dumping rules further provide that the examination of the impact of the dumped imports on the domestic industry should include an objective 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. Accordingly, various injury parameters relating to the domestic industry are discussed herein below.

a. Production, Capacity, Capacity Utilization and Sales

76. The performance of the domestic industry with regard to production, domestic sales, capacity and capacity utilization is as follows:

Particulars	Unit	2019-20	2020-21	2021-22	POI
Capacity (applicant)	MT	***	***	***	***
Trend	Indexed	100	100	118	186
Production – Total (applicant)	MT	***	***	***	***
Trend	Indexed	100	92	113	127
Production – PUC (applicant)	MT	***	***	***	***
Trend	Indexed	100	93	113	126
Capacity Utilization based on Total Production	%	***%	***%	***%	***%
Trend	Indexed	100	92	95	68
Domestic sales (applicant)	MT	***	***	***	***
Trend	Indexed	100	93	110	127

77. The capacity of the domestic industry has increased to cater the increased demand in the country of the subject goods. The domestic industry could not utilize its capacity to a reasonable level. It is also noted that the production and sales of the domestic industry also increased throughout the injury investigation period. As per the information available on record, though the supporters have increased their capacities during injury period, their capacity utilisation remains suboptimal.

b. Market Share

78. Market share of alleged dumped imports and domestic industry have been examined as below:

Particulars	UoM	2019-20	2020-21	2021-22	POI
Total demand	MT	***	***	***	***
Trend	Indexed	100	97	131	171
Domestic sales (applicant)	%	***%	***%	***%	***%
Trend	Indexed	100	97	84	74
Domestic sales (other producers)	Indexed	***%	***%	***%	***%
Trend	%	100	168	156	165
Domestic sales (total domestic producers)	%	***%	***%	***%	***%
Trend	Indexed	100	127	114	112
Import from China PR	%	***%	***%	***%	***%
Trend	Indexed	100	60	74	74
Import from other countries	%	***%	***%	***%	***%
Trend	Indexed	100	201	201	239

79. It is noted from the above that market share of the domestic industry has declined throughout the injury investigation period. The market share of all Indian producers has increased in 2020-21 but marginally declined after that. The market share of imports from China had decreased in 2020-21 but has increased thereafter with a slight decline in the POI. It is apparent from the above that the imports from China continue to acquire significant market share in demand despite there being unutilised capacities available with the domestic industry and other producers.

80. Further, while the market share of the other producers has increased, the same is increased majorly because of installation of new capacities and production facilities by various new producers largely after the imposition of anti-dumping duties. The information on record indicates that as many as seven new producers have set-up production facilities in the injury investigation period. The Authority notes that it is logical for any new producer to acquire some market share after commencement of production. However, it is also noted from information on record that the capacity utilization of the new producers remains very low at 20% during the POI.

c. Inventories

81. Inventory with the domestic industry has been examined as below:

Particulars	UoM	2019-20	2020-21	2021-22	POI
Inventory	MT	***	***	***	***
Trend	Indexed	100	93	117	134

82. It is seen that the average inventory level of the domestic industry has increased throughout the injury investigation period, except for 2020-21. The increased imports from China have affected the inventories of the domestic industry.

d. Profitability, Return on Investment and Cash Profits

83. Performance of the domestic industry has been examined in respect of profits, cash profits and return on capital employed:

Particulars	UoM	2019-20	2020-21	2021-22	POI
Sales	MT	***	***	***	***
Trend	Indexed	100	93	110	127
Sales value (Rs. Lacs)	Rs. Lacs	***	***	***	***
Trend	Indexed	100	126	219	235
Selling price	Rs. /MT	***	***	***	***
Trend	Indexed	100	135	199	186
Cost	Rs. Lacs	***	***	***	***
Trend	Indexed	100	97	184	232
Cost	Rs. /MT	***	***	***	***
Trend	Indexed	100	104	167	184
Profit/loss	Rs. Lacs	***	***	***	***
Trend	Indexed	100	6,030	7,421	788
Profit/loss per unit	Rs. /MT	***	***	***	***
Trend	Indexed	100	6,455	6,749	623
Depreciation	Rs. Lacs	***	***	***	***
Trend	Indexed	100	102	116	142
Depreciation	Rs. /MT	***	***	***	***
Trend	Indexed	100	109	106	112
Cash Profit	Rs. Lacs	***	***	***	***
Trend	Indexed	100	636	774	200
Cash Profit	Rs. /MT	***	***	***	***
Trend	Indexed	100	680	704	158
Capital employed	Rs. /MT	***	***	***	***
Trend	Indexed	100	136	190	164
ROCE	%	***%	***%	***%	***%
Trend	Indexed	100	820	626	137

84. The profits, cash profit and ROCE of the domestic industry has significantly declined in the POI as compared the previous two years.

e. Employment, Wages and Productivity

85. The Authority has examined the information relating to employment, wages and productivity, as given below:

Particular	Unit	2019-20	2020-21	2021-22	POI
Production	MT	***	***	***	***
Trend	Indexed	100	93	113	126
Employees	Nos	***	***	***	***
Trend	Indexed	100	108	135	160
Production/day	MT/Nos	***	***	***	***
Trend	Indexed	100	93	113	126
Wages	Rs. Lacs	***	***	***	***
Trend	Indexed	100	89	105	131
Wages / Employee	Rs. / No.	***	***	***	***
Trend	Indexed	100	83	78	82

86. It is noted that productivity has increased throughout the injury investigation period and the POI. Therefore, this cannot be a reason for any injury to the domestic industry. It is also noted that the number of employees engaged by the domestic industry in the POI has increased as compared to the base year. It is also submitted by the domestic industry that the same has increased considering addition in capacity and the prospects of increase in demand in the domestic market.

f. Growth

87. The growth of the domestic industry has been positive with respect to production and sales. However, the growth has been negative with respect to profitability, market share, PBIT and ROI. The inventories of the domestic industry have also increased. The increased imports have had negative impact on the growth of the domestic industry.

Particulars	2019-20	2020-21	POI
Production (Domestic Industry-Applicant)	-***%	***%	***%
Domestic Sales (Domestic Industry-Applicant)	-***%	***%	***%
Profit/(Loss) per unit	***%	***%	-***%
Inventory	-***%	***%	***%
Market share of DI (Applicant) in total demand	-***%	-***%	-***%
Profit/(Loss) (Rs. In Lakh)	***%	***%	-***%

Cash Profit (Rs. In Lakh)	***%	***%	-***%
Cash Profit per unit	***%	***%	-***%
PBIT (Rs. In Lakh)	***%	***%	-***%
PBIT per unit	***%	***%	-***%
ROI%	***%	-***%	-***%

g. Ability to Raise Capital Investment

88. The applicant contends that the decline in profitability and return on capital employed has impacted the ability to raise capital investment.

h. Injury Margin

89. The Authority has considered the NIP for the domestic industry on the basis of principles laid down in the Rules read with Annexure III, as amended. The NIP of the PUC has been considered by adopting the information/data relating to the cost of production provided by the domestic industry. The NIP has been considered for comparing the landed price from the subject country for calculating injury margin. For determining the NIP, the best utilization of the raw materials and utilities has been considered over the injury period. Best utilization of production capacity over the injury period has been considered. Extraordinary or non-recurring expenses have been excluded from the cost of production. A reasonable return (pre-tax @ 22%) on average capital employed (i.e., average net fixed assets plus average working capital) for the PUC was allowed as pre-tax profit to arrive at the NIP as prescribed in Annexure III of the Rules and being followed.

90. Based on the landed price and NIP considered as above, the injury margin for producers/exporters arrived at is provided in the table below:

INJURY MARGIN TABLE

Producer / Exporters	NIP (USD/MT)	Landed value (USD/MT)	Injury Margin (USD/MT)	Injury Margin (%)	Range
Changzhou Sveck Photovoltaic New Material Co., Ltd.	***	***	***	***%	1-10
All others	***	***	***	***%	10-20

I. CAUSAL LINK AND NON-ATTRIBUTION ANALYSIS

91. As per the AD Rules, the Authority, *inter alia*, is required to examine any known factors other than dumped imports which are injuring or are likely to cause injury to the domestic industry,

so that the injury caused by these other factors may not be attributed to the dumped imports. While the present investigation is a sunset review investigation and causal link has already been examined in original investigation, the Authority examined whether other known listed factors have caused or are likely to cause injury to the domestic industry. It was examined whether other factors listed under the AD Rules could have contributed or are likely to contribute to the injury suffered by the domestic industry.

92. The listed known factors have not caused injury, as is seen from the following:

a. Volume and price of imports from third country

93. The majority of imports of the subject goods are happening from China PR. The volume of imports from countries other than China PR are not significant except for Vietnam. As regards the imports from Vietnam, the domestic industry has contended in its application that the present investigation being sunset review investigation, the scope of the subject countries cannot be changed. They have also stated that they are in the process of filing a new application against Vietnam. Noting the submissions made by the domestic industry in this regard, the Authority notes that the scope of the investigation in a sunset review investigation is limited to examining the likelihood of continuation or recurrence of dumping from the countries already subjected to anti-dumping duties. While domestic industry may also be facing injury on accounts of imports from Vietnam, the same is a matter of examination through a separate investigation. In addition, it is also noted that in a sunset review investigation there is no bar in continuation of duties against a subject country even if imports have started coming from other sources post imposition of duties.

b. Contraction in Demand and / or Change in Pattern of Consumption

94. There is no contraction in demand for the products under consideration in India. The demand has, instead, increased significantly throughout the injury investigation period.

c. Change in Pattern of Consumption

95. The pattern of consumption with regard to the product under consideration has not undergone any change. Therefore, changes in the pattern of consumption cannot be considered to have caused injury to the domestic industry.

d. Trade restrictive practices

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

e. Development of Technology

97. Technology for production of the product concerned has not undergone any change. Thus, developments in technology cannot be regarded as a factor of causing injury to the domestic industry.

f. Export performance

98. The Authority has considered data for the domestic operations only for the injury analysis. Therefore, export performance is not the cause for the injury to the domestic industry.

g. Impact of COVID-19

99. The Authority notes that the performance of the domestic industry during the years impacted by Covid-19 i.e., 2020-21 and 2021-22 was relatively good. It is only thereafter that the performance of the domestic industry has declined in the POI. Thus, the injury suffered by the domestic industry during the POI cannot be linked to Covid-19.

J. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING AND INJURY

100. In a review investigation, the Authority has to determine whether the subject goods are continuing to enter or likely to enter the Indian market at dumped prices and whether injury to the domestic industry is likely to continue or recur due to these dumped imports if the duty is removed.

J1. Submissions by other interested parties

101. The submissions of the interested parties with regard to likelihood of injury are reproduced herein below:

a. The domestic industry has not faced any injury and there is no likelihood of injury to the domestic industry.

J2. Submissions by the domestic industry

102. The submissions of the domestic industry with regard to likelihood of injury are reproduced herein below:

b. The continued dumping and consequent injury on account of the dumped Chinese imports is a robust indicator of an imminent likelihood of ever so intensified dumping and injury in the event of non-continuance of the existing duties.

c. The imports are already coming at dumped prices which are causing injury to the domestic industry. However, the existing anti-dumping duties are acting as a safety net, protecting the domestic producers from suffering losses. If the existing anti-dumping duties are allowed to expire, the same would lead to causing significant

financial damage to the domestic producers to an extent where the domestic producers shall be forced to shut shop on account of non-remunerative imports.

- d. The domestic industry has been cornered and lost significant business to the Chinese exporters. They have stated that while most of the business transactions in the sector are communicated verbally, they have provided written communication wherein one of their customers has denied to proceed with purchase from domestic industry on account of availability of “cheaper options” from China PR.
- e. There has been substantial increase in capacities of the product under consideration in China PR. Further, there are further planned capacity enhancements in China PR. They have provided following evidences to substantiate their submission:
 - i. Changzhou Bbetter Century Film Technologies Co., Ltd has signed a project investment with the Xianyang City Equipment Manufacturing Industrial Park Management Committee of Shaanxi Province and Xianyang Qindu District State-Owned Investment Company for the construction of an 8GW photovoltaic module EVA film project in Xianyang, Shaanxi. The total investment of the project is estimated to be 500 million yuan, and the plant is understood to have begun production in 2022. The annual output value of the plant believed to be approximately 1 billion yuan.
 - ii. Changzhou Bbetter Century Film Technologies Co., Ltd has further invested RMB800 million (US\$125 million) into establishing 20GW of ethylene vinyl acetate (EVA) production in the Chinese city of Chuzhou.
 - iii. Dushanzi Tianli Hi-Tech Petrochemical in cooperation with Xinjiang and CNPC has started production in September 2022 in a new EVA project with the capability of producing 200,000 tons/year.
 - iv. On March 3, 2022, Zhongke Refining started up a 100,000 tons/year EVA plant to start up the whole process and produce EVA products.
 - v. In 2022, Gulai Petrochemical started a plant with the capacity of 300,000 tons / year.
 - vi. Further, in 2022, Shenghong Refining started a plant with the capacity of 300,000 tons / year.
 - vii. The estimated new EVA plant capacity added in 2022 is 900,000 tons.
 - viii. In 2023, Ningxia Baofeng is expected to add three 250,000 tons /year capacities.
 - ix. In 2023, Yulongdao refining and chemical integration is expected to add 700,000 tons / year capacity.
 - x. The estimated new EVA plant capacity to be added in 2023 stands at 950,000 tons.
 - xi. In next five years, China is expected to add new capacities of 1.6 million tons/year taking its EVA production capacity to 3.5 million tons/year.
 - xii. Zhejiang Petrochemical as well as Yanchang Yulin increased their EVA output by 300 tons / year.

- xiii. Hangzhou first takes up nearly 60% of the global market share, and the top three Chinese EVA makers account for 80% of the global market.
- f. The domestic industry has submitted an email communication from a potential buyer who has declined to proceed with the order of the subject goods from the domestic industry on account of availability of cheaper alternatives from China PR.
- g. The existing capacities to produce the subject goods in the country have gone up by almost seven times. Further, considering the growth in the sector in previous years, as many as eight new producers have set up shop to produce and sell the subject goods in the country.
- h. As a consequence of imposition of anti-dumping duties, the Indian industries were able to compete with the dumped goods from China creating an optimistic atmosphere for industrial growth. This led to significant investment in the sector with multiple companies setting up the production plants in the sector. However, the import prices from China fell significantly in the POI period creating substantial risk to the new investments made in the industry in India. The details of the newly added capacities are as under:

Name of Domestic Producres	Capacity Available
Renewsys India Pvt. Ltd. (Applicant)	***
Vishakha Renewables Pvt. Ltd.	***
Navitas Alpha Renewables Pvt. Ltd.	***
Alishan Green Energy Pvt. Ltd.	***
Enerlite Solar Films India Private Limited	***
Filmtec Solar Private Limited	***
Pixon Green Energy Private Limited	***
Knack Energy	***
Shivam Greentech	***
Sunlink	***
ECAP Greentech Private Limited	***
Total Indian capacity	62,731

J3. Examination by the Authority

- 103. The Authority has examined the likelihood of continuation or recurrence of injury considering the requirement laid down under Section 9A(5), Rule 23 and parameters relating to the threat of material injury in terms of Annexure - II (vii) of the anti-dumping rules, and other relevant factors brought on record by the interested parties.
- 104. The Authority observes that this is a sunset review investigation, the focus of this investigation is to examine the likelihood of continuation or recurrence of dumping and consequent injury to the domestic industry. This also requires a consideration of whether the duty imposed is serving the intended purpose of eliminating injurious dumping.

105. All the factors brought to the notice of the Authority have been examined to determine whether there is likelihood of continuation or recurrence of dumping or injury in the event of cessation of the duty. The Authority has considered various information, as made available by the domestic industry and other interested parties, in order to evaluate the likelihood of continuation or recurrence of dumping or injury.

106. There are no specific methodologies available to conduct such a likelihood analysis. However, clause (vii) of Annexure II of the Rules provides, *inter alia*, for factors which are required to be taken into consideration. Further, the Authority has also examined other relevant factors having a bearing on the likelihood of continuation or recurrence of dumping and consequent injury to the domestic industry:

- a. **A significant rate of increase of dumped imports into India indicating the likelihood of substantially increased importation:** from the data on record, the Authority notes that the imports from China decreased in 2020-21 and increased thereafter with a substantial increase in the POI. The details are provided in the table below:

Particulars	2019-20	2020-21	2021-22	POI
Imports from China (MT)	8,343	4,805	8,091	10,528
Index	100	58	97	126

- b. **Sufficient freely disposable, or an imminent, substantial increase in, capacity of the exporter indicating the likelihood of substantially increased dumped exports to Indian markets, taking into account the availability of other export markets to absorb any additional exports:** From the facts and evidences on record, the Authority notes that there has been significant capacity addition in China. The evidences submitted by the domestic industry regarding significant increase in capacities as well as further imminent increase in capacities have not been controverted by any of the interested party. Further, the evidences on record indicate that top 3 Chinese exporters themselves enjoy more than 80% of the global market share. This clearly indicate that in the event of cessation of duties, the dumped imports are likely to enter into Indian market with increased intensity. In addition, the questionnaire response filed by the only cooperating exporter from China also indicates substantial increase in capacities of the said exporter. It is also noted that a significant capacity of the cooperating exporter from China PR is unutilized during the injury period.
- c. **Whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices and would likely increase demand for further imports:** From the data on record the Authority notes that the Chinese goods are entering into the Indian market at rates which have significant suppressing/depressing effect on domestic prices. It may be seen that the landed value from China is below the selling price and cost of the domestic industry except for 2020-23 and 2021-22. The landed value of the goods imported from China were below the selling price and the cost of the domestic industry in the POI. While the landed value computed above is without taking into

consideration the applicable anti-dumping duties, the above examination indicates strong likelihood that in the event of cessation of the anti-dumping duties, the domestic industry may move into a loss-making situation.

- d. **Inventories of the article being investigated:** The domestic industry has submitted market reports indicating that there is a “high probability of oversupply” in the EVA market of China. The said report also predicts that the “China's EVA industry will remain basically flat in the next five years”. The questionnaire filed by the only cooperating exporter also indicate significant increase in capacities, production and inventory.
- e. **Continued dumping of the subject goods:** The dumping margin and injury margin both are positive for the imports from China. Thus, in absence of duties, the dumping of the subject goods is likely to continue.
- f. **Third Country dumping:** The Authority has examined the exports of the cooperating exporter to third countries. The same is reflected in the table below:

Particulars	Quantity	Value (RMB)	Value (USD)	% of total exports	Range
Below Normal Value	***	***	***	***%	30-40
Above Normal Value	***	***	***	***%	60-70
Total	***	***	***	***%	

It is noted from the exports to third countries of the cooperating exporter that 36.28% of the exports of the said exporter is at dumped prices.

- g. **Third country injurious imports:** The Authority has examined the exports of the cooperating exporter to third countries. The same is reflected in the table below:

Particulars	Quantity	Value (RMB)	Value (USD)	% Of total exports	Range
Below NIP	***	***	***	***%	30-40
Above NIP	***	***	***	***%	60-70
Total	***	***	***	***%	

It is noted from the exports to third countries of the cooperating exporter that 36.05% of the exports of the said exporter is at injurious prices.

- h. **Third country exports vs. Exports to India:** The Authority has examined the exports of the cooperating exporter to third countries vis-à-vis the exports of the said exporter to India. The same is reflected in the table below:

Particulars	Quantity	Value (RMB)	Value (USD)	% of total exports	Range
Below NEP (India)	***	***	***	***%	30-40
Above NEP (India)	***	***	***	***%	60-70
Total	***	***	***	***%	

It is noted from the above that the cooperating exporter has exported 31.68% of its goods to third countries below its export price to India.

i. **Landed Value below and above NSR of the domestic industry in the POI:** The Authority has also examined the exports of the cooperating exporter to other countries. The data in this regard is summarized in the table below:

Particulars	Quantity	Landed Value (USD/MT)	NSR (DI) (USD/MT)	Price Undercutting	% of total exports	Range
LV Below NSR	***	***	***	***%	***	30-40
LV Above NSR	***	***	***	***%	***	60-70

107. It is noted from the above that 31.99% of the exports of the cooperating exporter to third countries are priced below the selling price of the domestic industry.

K. POST DISCLOSURE COMMENTS

108. The Authority issued the disclosure statement on 21st December 2023 disclosing essential facts under consideration in the investigation and inviting comments from all the interested parties. Most of the issues raised in the post-disclosure comments have already been raised earlier and addressed appropriately hereinabove. Additional submissions, to the extent relevant, have been examined by the Authority below:

K1. Submissions by other interested parties

109. The following submissions have been made by the other interested parties:

- a. Fresh calculation of dumping margin, injury margin and rate of duty should be done for the participating producer/exporter.
- b. The producer/exporter has provided all the necessary information as and when sought by the Authority in the present investigation. Since, the Authority has conducted comprehensive review where dumping margin/injury margin of producer/exporter and injury to the domestic industry have been redetermined in the sunset review investigation, so the Authority should re-calculate and recommend the duty, if any, based on the current data filed by the producer/exporter.
- c. In a sunset review investigation, the Authority should act in accordance with Rule 23(1) and 23(3), wherein the Designated Authority needs to review the recommendation of anti-dumping duty imposed for the participating producer/exporters. It should not continue the dumping/injury margin calculated in the anti-dumping investigation, rather it should be calculated in the present sunset review investigation based on the present circumstances, especially when the producer/exporter is fully co-operative and providing all necessary information as required by the Authority.
- d. The Authority, in accordance with Rule 17(1) read with Annexure 3, should calculate anti-dumping duty-based dumping/injury margin calculated in accordance with Rules and lesser duty rule based on the non-injurious calculated in the current investigation.
- e. The Authority is duty bound under Rule 4(d) of the Anti-Dumping Rules, to levy anti-dumping duty based on the dumping margin. In the current sunset review investigation, the Authority is bound by the rules to levy duty in accordance with the dumping margin calculated in the current sunset review investigation and should not continue the earlier anti-dumping duty. Further, in accordance with the lesser duty Rule, implement/recommend the duty based on the lower of dumping margin and injury margin.
- f. In the past, the Authority has been consistently applying the above rules in their true spirit and modifying the anti-dumping duty in the sunset review investigation. In several sunset review investigations, the Authority has worked out and recommended fresh rate of anti-dumping duty based on the export data of the participating producers/exporters for the period of investigation. Similarly, in several cases, the Authority has also recommended withdrawal of anti-dumping duty in sunset review investigations.
- g. It is submitted that the present investigation has been initiated by the Authority based on petition filed by the domestic industry. Data submitted in the petition has been used throughout the proceedings including public hearing by the domestic industry. However, to our surprise, the information pertaining to imports and economic parameters of the petitioner shows significant change as compared to the data filed by the petitioner in its petition/ written submissions. The Authority is requested to clarify

the source of the data considered by the Authority and the reasons for the above changes before proceeding in this matter.

- h. There was no dumping situation of the product under consideration imported from China PR and there is no likelihood of dumping and injury from the imports from China PR. To continue anti-dumping measures in this investigation will be inconsistent with the long-term and overall interests of the Indian domestic industry and its downstream industries.
- i. The domestic industry alone cannot fulfil the Indian demand; therefore, imports are imperative. The existing duty has served its purpose and no longer required.
- j. The producer/exporter believes that the constructed normal value (CNV) and non-injurious price (NIP) calculated by the Authority is highly inflated and believe that the same is based on hypothetical assumptions.
- k. The Authority has examined the non-injurious price for third country exports and exports to India by using the weighted average NIP/CNY compared with the transaction-by-transaction data which has resulted into erroneous figures. It is submitted that there are various factors that affect the NIP/CNY are prices of raw materials, salary and wages, cost of utilities, depreciation, etc. The raw material used in the production of the subject goods i.e., EVA granules, HDPE compounds and absolute ethanol. All these products are petroleum based and their prices fluctuate highly.
- l. The imposition of anti-dumping duties shall not be in public interest. In the present investigation, there is a high likelihood that the petitioner would dominate the market and would create barriers for market entry, which is harmful to the competitive environment and healthy development of the industry of India. The petitioner is trying to get protection for his own inefficiencies. The petitioner provides in the written submissions filed by them that the capacity of the Indian producers have gone up significantly.

K2. Submissions by the supporters

110. The following submissions have been made by the supporters:

- a. The continuation of anti-dumping is essential for the survival and growth of Indian Industry. The EVA industry in India has seen tremendous growth in last 5 years due to the protection provided by the government in the form of anti-dumping duties.
- b. Despite anti-dumping duties, the Chinese exporters continue to export EVA sheets in the Indian market at unfair prices. However, the existing duties have greatly help Indian industries in cutting losses and acquire access to the market. At this critical juncture,

the removal of anti-dumping duties shall lead to a total chaos in the market of which the Indian producers of EVA sheets would be at the receiving end.

- c. Most of the imports post imposition of duties are happening on duty paid basis. Thus, the import prices, which include the duty component, are not reliable for the purpose of computing the landed value. If the Authority is inclined to change the existing anti-dumping duties, the import transactions of the Chinese exporters should be carefully examined before any change in duty is undertaken.
- d. The disclosure statement does not reflect the actual market realities as it states that the injury margin of the cooperating producer is in the range of 1%- 10%. This essentially means that the said exporter is selling the subjects goods in the range of Rs. 360/KG to Rs. 420/KG in contrast to Indian producers' selling price of Rs. 290/KG to Rs. 320/KG, which is not at all possible.
- e. Revocation of duty or reduction in duty shall lead to proportionate decrease in prices, which shall force the domestic producers to either suffer significant losses or close down operation. It is submitted that the earlier duties should be extended without discontinuation/reduction.
- f. At the time the anti-dumping duties were imposed in 2019-20, the EVA prices used to be in the range of 1,50,000 – 1,80,000 Rs/MT. Thus, the duties imposed against China in the range of 537 – 897 USD/MT was considering the then existing prices of EVA sheets. At that time, the duties were imposed considering that there is 30-40% gap between Chinese prices and Indian prices. However, since then the prices of EVA Sheets have increased by almost 100%, owing to increase in raw material price. Due to increase in prices of EVA, the duties imposed earlier are insufficient to protect the industry as they only account for 15%-20% of the EVA prices. On the other hand, the actual gap between the Chinese prices and Indian prices remains to be 30-40%.
- g. Some of the supporters have submitted that the prices of the subject goods have increased since the original investigation. They have requested to increase the quantum of anti-dumping duties imposed on fixed duty basis in line with the increase in prices.

K3. Submissions by the domestic industry

111. The following submissions have been made by the domestic industry:

- a. There is significant difference in the quantum of imports in the transaction wise data submitted by the domestic industry and the DGCI&S data relied upon by the Authority. The domestic industry understands that the difference in the quantum of imports in DGCI&S data may be owing to difficulty in segregating data and identification of the PUC on account of the fact that there is no dedicated heading/classification for the PUC. However, the Authority may call for DG Systems

data to verify the quantum of imports. It is submitted that even the market intelligence of the domestic industry as well as other Indian producers suggest that the imports from China PR are in excess of 15,000 MT during the POI.

- b. As per the market intelligence of the domestic industry, the cooperating exporter is exporting the PUC to India much below the selling price of the domestic industry. Based on the NIP disclosed by the Authority, the injury margin of the cooperating exporter should have been between 20%-30%.
- c. It is noted from the disclosure statement that the injury margin computed for the cooperating exporter is in the range of 1%-10%. Taking into consideration the NIP of the domestic industry, the landed value of the exporter must be between the range of 3,15,000 – 3,30,000 Rs/MT. On top of the landed value, the imports made from the said exporter attract anti-dumping duty of 590 USD/MT or Rs. 47,876/MT. Adding the same in the landed value will give the final import value of Rs 3,62,876 to 3,77,876 per MT. Considering that the domestic industry is forced to sell its product at Rs. *** Rs/MT, it is improbable that the so-called cooperating exporter is selling its product in the range of Rs 3,62,876 to 3,77,876 per MT. Had they been really selling their product on such high prices; the domestic industry would not have hugely unutilized capacities and no buyer even at its current selling price of *** Rs/MT.
- d. Most of the consumers of the domestic industry are also importers of the subject goods. It is submitted that post issuance of the disclosure statement, the domestic industry enquired from its customers about the reason for such high landed value reflected in the disclosure statement. Most of our customers informed us those Chinese exporters are exporting the subject goods at duty paid or delivered basis, wherein the invoice value includes the anti-dumping duty component or after importation expenses up to the delivery of the product to the warehouse. As per the information available with the domestic industry, the cooperating exporter (Sveck) as well as other Chinese producers have exported significant quantities of the subject goods on such basis. The Authority should cross-check this with the exporter and importer and take an undertaking to this effect. The reason for the non-cooperation of the exporters with lowest duties and the importers is that they did not want to disclose this to the Authority. This is the precise reason why the importer, despite being prodded, refused to file its questionnaire response.
- e. The legal mandate in a sunset review investigation is to examine whether there is continuation or likelihood of recurrence of dumping and injury if the duties are not “continued”. To this extent, the law only allows continuation of duties in a sunset review investigation. It is for this very reason that law also provided for a “mid-term review”, where duties can be varied on the basis of changed circumstances.
- f. Duties in the original investigation were based upon the prices and landed value of the subject goods at that time. Since then, the prices of the subject goods have increased significantly owing to increased raw material cost. The increase in raw material prices

of the subject goods entail increase in the landed value and NIP, which leads to significant ad-valorem decrease in the duties.

- g. The duties were imposed in original investigation against the cooperating exporter (Sveck) at 590 USD/MT, which was in the range of (25%-35%). The duties against other exporters in the original investigation were 897 USD/MT, which were in the range of (35%-45%). However, owing to increased prices, the said duties, on the basis of current prices shall be in the range of 10%-15% for the cooperating exporter and around 20%-for the non-cooperating exporters, which is much less than the duties imposed in the original investigation but shall be greatly helpful in protecting the domestic industry from further injury.
- h. The impact analysis carried out by the domestic industry in its petition for continuation of anti-dumping duty has not been rebutted by any of the interested parties. The said analysis clearly demonstrated that there will be negligible (0.34%) impact of 20% anti-dumping duty on the end users (without taking into consideration cost of land).
- i. The landed value of China is much below the cost of production of the domestic industry. The domestic industry is able to sell its product above cost only because of the anti-dumping duties in place. However, despite anti-dumping in place, the domestic industry is not able to recover fair price (as determined by the Authority) of the PUC. In such a situation, any reduction in duties shall further deteriorate the condition of the domestic industry and push it into a loss-making position.
- j. The domestic industry is not seeking an excess protection in the present case. On the contrary, the domestic industry is seeking a level playing field against the dumped and injurious Chinese imports in the country. While in the original investigation duties were imposed against 4 countries vis-à-vis China, Malaysia, Thailand and Saudi Arabia, the domestic industry only requested for continuation of duties against China. This itself is evidence of the fact that the domestic industry is not seeking an excessive protection but only a reasonable protection from the menace of the dumped and injurious imports from China.
- k. It is undisputed from the evidences on record that top 3 Chinese exporters themselves enjoy more than 80% of the global market share. In such a situation, the non-cooperation of the Chinese exporters is intentional. Had the said exporters participated before Authority, it would have been clear that there is an increased likelihood of dumping and injury. Their participation would have ensured that the data regarding their capacities, production, inventories and exporters would have been on record. However, said parties chose to not cooperate with an intention to deprive Authority of such critical data and somehow get the duties revoked or reduced. The Authority should take strict note of the intentional non-cooperation by the Chinese exporters and recommend the continued imposition of duties earlier imposed.

1. While analysing the exports of the cooperating exporter to third countries, only the exports made to Asia-Pacific region should be taken into consideration. It is humbly submitted that the prices outside Asia-Pacific region are historically and naturally higher on account of the macro-economics and the higher labour costs of such regions. The same is evident from the following:

- i. There are minuscule imports of subject goods into India from countries outside Asia-Pacific region. This clearly show that Indian market is not attractive for the exporters outside Asia-Pacific region. This is because of higher prices prevailing in such countries.
- ii. Even the exports of the domestic industry beyond Asia-Pacific region are much above their selling prices in India. The same is evident from the details of exports of the domestic industries which is already available with the Authority. For the sake of convenience, the same is also summarised in the table below:

Country	Export price of DI
Argentina	***
France	***
Netherlands	***
Saudi Arabia	***
Spain	***
USA	***
United Arab Emirates	***
Total	***
India (Selling Price)	***

- iii. It is evident from the above that the export price of the domestic industry is above 20% higher in other countries compared to the selling price of the domestic industry in India. This is because the market in India and Asia-Pacific region is differently situated as compared to the market of other countries. Thus, the high-priced exports made to such countries would not depict the correct position regarding the pricing behaviour of the Chinese exporters. However, the market of the PUC in countries like Vietnam, Taiwan, Malaysia etc. are similarly placed as the market in India. Thus, the domestic industry humbly requests the Authority to carry out a separate analysis of the exports made by the Chinese exporter to Asia-Pacific region before concluding on the pricing behaviour of such exporter.
- m. The exports of the cooperating exporter to third country do not hold relevance given the fact that it is an admitted position that significant capacity of the cooperating exporter from China PR is unutilized during the injury period. The Authority would appreciate that since the cooperating exporter has significant unutilized capacities, its thrust would be to utilize its capacity to the fullest and continue to dump in the Indian market.

- n. In a sunset review investigation, the focus of this investigation is to examine the likelihood of continuation or recurrence of dumping and consequent injury to the domestic industry. However, the domestic industry notes from the written submissions filed by the opposing interested parties and the disclosure statement issued by the Authority that none of the opposing parties have made any submission regarding likelihood of continuation or recurrence of dumping and injury, except for a single generic statement.
- o. None of the interested parties have refuted/countered the vast number of evidences placed by the domestic industry clearly demonstrating likelihood of dumping and injury in the event of cessation/reduction of duties.
- p. The prices of the subject goods are highly volatile. The prices have almost doubled from the original investigation itself. In such a situation, a reference price-based duty shall not be in the interest of either the domestic industry or the users of the subject goods.
- q. On the back of the imposition of anti-dumping duties, increasing demand and the kind protection granted by the Authority from dumped and injurious Chinese imports, the industry made significant investments in setting up new capacities for production of the subject goods. As against two producers in the original investigations (there were four producers but two closed down by the time duties were imposed), as many as 8 more producers set up plant to manufacture subject goods in India. The capacities to produce subject goods in the country also increased manyfold. Most of the new capacity was added by the industry in the POI on the back of significantly good 2020-21 and 2021-22 when China was facing difficulties in exports on account of Covid-19 and high freight charges. However, once recovered, Chinese exporters have intensified the dumping and a threat of existence is looming large over the industry.
- r. The significantly dumped prices from China not only hamper the performance of the domestic industry, but also restrict imports from other sources (except Vietnam- most of the imports from Vietnam are from subsidiary of M/s Changzhou Bbetter Century film Technologies Co. Ltd., China). Thus, the Chinese imports are also restricting the choices available to Indian customers from other sources.

K4. Examination of the Authority

112. The Authority noted that most of the issues raised in the post-disclosure comments have already been raised earlier and addressed appropriately hereinabove. The submissions raised by the interested parties, to the extent relevant and not addressed elsewhere, are examined hereinbelow.

113. As regards the submission of the domestic industry regarding difference in the import data from private source as submitted by them and the DGCI&S import data as relied in these

findings, the Authority notes that upon filing of application, the Authority sought import data from DGCI&S for the tariff headings provided by the domestic industry. The DGCI&S import data was segregated and help was sought from the domestic industry with respect to classification issues concerning PUC, and non-PUC. The difference in the import details between the DGCI&S data and the imports detail in the petition was discussed with the domestic industry at the initiation stage. No concern of any kind was raised by the domestic industry at any point of time during the investigation. Therefore, the contention of the domestic industry with respect to the import volume, raised in the post-disclosure comments, cannot be accepted.

114. The domestic industry has not provided any evidence regarding low price of the producer/exporter or that the cooperating exporter did not report the details of its exports truthfully. As regards the submission of the domestic industry and the supporters that the Chinese exporters including the cooperating exporter are exporting subject goods to India at “duty paid” or “delivery basis”, it is noted that the said parties have not submitted any evidence substantiating their submissions. In the absence of any evidence to this effect, the Authority is not in a position to make any determination to this effect.
115. As regards the submission of the domestic industry that the likelihood examination with respect to the third country exports of the cooperating exporter should be seen vis-à-vis Asia-Pacific region, the Authority notes that there is no basis for a region-specific analysis of the exports made by the exporter.
116. As regards the submission of the domestic industry that reference price-based duty is not appropriate in the present case, the Authority notes that the prices of the subject goods have undergone significant changes on year-on-year basis since the original investigation. Considering the volatility of the product prices, the Authority deems it appropriate to recommend continuation of duties on fixed quantum basis.
117. As regards the submission of the interested parties regarding the modification of existing duties or continuation of the present anti-dumping duty, the Authority notes that after examining the factual matrix of the case where the domestic industry's performance continues to be at sub optimal level, and there is a likelihood of continuation/recurrence of dumping and injury, it is considered appropriate to continue the existing anti-dumping duty.
118. As regards the request of the supporters for increase in duties, the Authority notes that there is no basis for enhancement of duties in the present case.
119. As regards the submission of the exporter regarding the basis for construction of NIP and CNV, the Authority notes that the NIP and CNV has been determined on the basis of the standard practice of the Authority and Annexure III and Annexure I of the Rules.
120. As regards the submission of the exporter that there is no likelihood of dumping and injury and the continuation of duties will not be in the public interest, the Authority notes that the relevant examinations are already conducted in the appropriate part of these findings.

121. As regards the submission of the exporter regarding demand supply gap in the country, the Authority has already noted that there is no demand supply gap in the country. The capacity of the domestic producers is significantly above the demand of the subject goods in the country.

L. INDIAN INDUSTRY'S INTERESTS AND OTHER ISSUES

L1. Submissions by other interested parties

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

- i. The world economy including Indian Economy is in bad shape currently due to the pandemic of COVID-19. Further, the entire mission of the nation is geared towards affordable access to alternate renewable energy such as solar energy.
- ii. Under the adverse circumstances of increased duty burden, imposition of anti-dumping duties will make the cost of the subject goods uneconomical and burdensome in the Indian market.

L2. Submissions by the domestic industry

123. The submissions made by the domestic industry are as follows:

- i. The domestic industry has quantified the impact of anti-dumping duties on the end-users as indicated in the table below:

Particulars		UOM	Per Module of 540 WP
EVA Sheets	A	KG	***
Sale Price of EVA Sheets (<i>before levy of ADD</i>)	B	Rs	***
Value of Solar Module	C	Rs	***
Value of other components (Junction Box, inverter, battery cables, mounting structure, LT Panel, System Installation, Civil Work, Mounting kit etc.)	D	Rs	***
Total Value of the establishment	E=C+D	Rs	***
EVA Sheets cost as a % of the total value of the Establishment	F=B/E	%	***%

Quantum of ADD at 20%	G=B*20% %	Rs	***
Impact of ADD on End Customer as Compared to the Value of Establishment	H=G/E	%	***%
Impact of ADD on End Customer taking into consideration value of land	I	%	0.005-0.0005

- ii. The claims of the other interested parties that the imposition of duties would substantially affect the solar industry and the availability of solar power in the country are baseless. While none of the interested parties made any meaningful submission with regard to the likely impact on the user industry, it is submitted that the impact of the duties on the module manufacturers would be minuscule. Further, no data information or evidence has been filed by other interested party to establish or even to suggest that the continuance of anti-dumping duties would be having any severe consequence on the user industry. On the other hand, none of the interested party has been able to controvert the impact analysis carried out by the domestic industry in its application which clearly establish almost no impact of duties on the end user.
- iii. The protection of anti-dumping duties on the subject goods has helped the industry to not only establish itself but also grow commensurate to the increasing demand in the country. The imposition of duties has led to significant investment in the sector. The existing capacities to produce the subject goods in the country have gone up by almost seven times. Further, considering the growth in the sector in previous years, as many as seven new producers have set up shop to produce and sell the subject goods in the country. The industry as a whole has created sufficient capacity to cater to the rising demand in the country. It is also a matter of fact that many of these new capacities have come up in the recent past and, therefore, it is absolutely necessary to give support to all these new investments.
- iv. Since it is undisputed that the dumping of the subject goods has increased significantly during the POI, non-continuance of the duties would be severely detrimental to the new investments in the sector. The imposition of duty has, in true sense, led to the industry being self-reliant or “*Atma-nirbhar*”. As stated earlier, if the duties are allowed to lapse at this critical juncture, it would significantly affect the existing, established as well as the new coming industries in the sector negatively.

L3. Examination by the Authority

124. The Authority notes that the purpose of anti-dumping duty, 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 anti-dumping measure would not restrict imports from the

subject country in any way, and, therefore, would not affect the availability of the product to the consumers.

125. It is recognized that the continued imposition of anti-dumping duty might affect the price levels of the product manufactured using the subject goods and consequently might have some influence on relative competitiveness of this product. The Authority notes that the domestic industry has submitted evidences demonstrating that the effect of anti-dumping duty on the downstream product would be in the range of around 0.34% in case of an imposition of 20% ADD. If the value of land is also taken into consideration, the impact would be even less in the range of 0.005% - 0.0005%.
126. The Authority notes that there has been a significant capacity addition by various producers of the subject goods in the country. The existing duties have encouraged the new producers to come up with new facilities to produce the subject goods. The dumped imports from China pose significant threat to these new producers along with the existing producers.
127. The Authority notes that the fair competition in the Indian market will not be reduced by the continued imposition of the anti-dumping measure. On the contrary, continued imposition of anti-dumping measure would remove the unfair advantages gained by dumping practices, prevent the decline in the performance of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods.
128. The Authority also takes note of the fact that while in the original investigation the duties were imposed on the imports from China, Malaysia, Thailand and Saudi Arabia, the present investigation for continued imposition is only against the imports from China. Thus, there are sufficient sources available to the users of the subject goods in the country.

M. CONCLUSION AND RECOMMENDATION

129. Having regard to the contentions raised, information provided, submissions made and facts available before the Authority as recorded in these final findings and on the basis of the determination of dumping and injury and the likelihood of continuation or recurrence of dumping and injury in the event of cessation of existing duties, the Authority concludes that:
 - a. The applicant domestic producer constitutes domestic industry under Rule 2(b) of the Rules and the application filed by them satisfies the criteria of standing in terms of Rule 5(3) of the Rules.
 - b. The Authority notes that in the original investigation three Chinese exporters namely, M/s Changzhou Bbetter Century film Technologies Co. Ltd., Hangzhou First Applied Material Co. Ltd. / M/s Suzhou First PV Material Co Ltd, and Changzhou Sveck PV New Material Co. Ltd. cooperated with the Authority. However, in the present investigation only one producer M/s Changzhou Sveck PV New Material Co. Ltd. has participated in the investigation.

- c. The product under consideration continues to be exported to India at prices below the normal value, resulting into dumping of the subject goods.
- d. The domestic industry performance has improved significantly because of the anti-dumping duties being in place. However, the data / evidences on record indicates that in the event of cessation of duties, the dumped imports are likely to enter into Indian market with increased intensity.
- e. The Authority also notes from the third country exports of cooperative exporter that significant share of the said exporter's export to third countries are at dumped and injurious prices. However, since the share of imports from the cooperative exporter is only around 7% of the total imports in India from subject country, it is highly likely that the examination of the data of other Chinese exporters would have indicated even greater quantities being exported out of China at dumped and injurious prices indicating the likelihood of further increased imports in India.
- f. There are significant unutilised capacities available with the Chinese exporters. The evidences filed by the domestic industry clearly indicate that there is a "high probability of oversupply" in the EVA market of China. The said report also predicts that the "China's EVA industry will remain basically flat in the next five years". The questionnaire filed by the only cooperating exporter also indicate significant increase in capacities, production and inventory.
- g. There is sufficient evidence to indicate that the revocation of the anti-dumping duty against China PR at this stage will lead to continuation of dumping and there is likelihood of further aggravated dumping and consequent injury to the domestic industry.
- h. While the duties are in place against imports from China, Malaysia, Thailand and Saudi Arabia, the domestic industry has only requested for continuation of duties against China. Thus, the anti-dumping duties against Malaysia, Thailand and Saudi Arabia are not to be continued.
- i. It is noted that post imposition of duties, several new producers have started producing the subject goods in the country. The Indian capacity of producing the subject goods has increased by over 400%, which clearly indicates the beneficial effects of the anti-dumping duties.
- j. The continuation of duties for additional period of 5 years shall provide a level playing field to the domestic producers of the subject goods.

130. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the domestic industry and other interested parties to provide information on the aspects of dumping, injury, likelihood of dumping and injury and the causal link.

131. Having concluded that there is positive evidence on the aspect of dumping, injury and causal link, likelihood of dumping and injury, if the existing anti-dumping duty is allowed to cease, the Authority is of the view that continuation of duty is required on subject goods from China PR.

132. Under these circumstances, the Authority considers it appropriate to recommend continuation of existing quantum of anti-dumping duty on the imports of subject goods from

China PR. The non-cooperating producers/exporters will be subject to the quantum of anti-dumping duty as specified in the “any others” row indicated in row no. 2 of the duty table given below, which is the same as any others rate as per final findings in the original investigations, and corresponding customs notification. Therefore, anti-dumping duty equal to the amount indicated in Col 6 of the duty table given below is recommended to be imposed from the date of notification to be issued in this regard by the Central Government, on all imports of subject goods, as detailed in column 3 of the duty table below along with the footnotes thereunder, originating in or exported from the China PR.

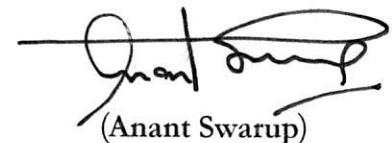
DUTY TABLE

S. No.	Sub Heading or Tariff Item*	Description of Goods	Country of Origin/ Country of Export	Producer	Duty Amount	Currency	Unit
1	2	3	4	5	6	7	8
1	3920 1011, 3920 1019, 3920 1099, 3920 6190, 3920 6290,	Ethylene Vinyl Acetate (EVA) Sheet for Solar Module	China PR	Changzhou Sveck Photovoltaic New Material Co., Ltd.	590	USD	MT
2	3920 9919, 3920 9939, 3920 9999, 3920 9099.		China PR	Any others	897	USD	MT

*Custom classification is only indicative and the determination of the duty shall be made as per the description of PUC.

N. FURTHER PROCEDURE

133. An appeal against the determination of the Designated Authority in this final finding shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the relevant provisions of the Act.



(Anant Swarup)

Designated Authority