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No. 14/12/2007-DGAD
GOVERNMENT OF INDIA
MINISTRY OF COMMERCE & INDUSTRY
(DEPARTMENT OF COMMERCE)
DIRECTORATE GENERAL OF ANTI DUMPING & ALLIED DUTIES

New Delhi, the 26th August, 2009

NOTIFICATION

FINAL FINDINGS

Subject: **Anti-Dumping Investigations concerning imports of Plain Medium Density Fibre Board originating in or exported from China PR, Malaysia, New Zealand, Thailand and Sri Lanka.**

Whereas The Designated Authority (hereinafter also referred to as the Authority), having regard to the Customs Tariff Act, 1975 as amended from time to time (hereinafter referred to 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, (herein after referred to as the Rules) received an application from M/s. All India Fibre Board Manufacturers Association, Faridabad (with Petitioner companies M/s. Shirdi Industries Ltd., and M/s. Nuchem Ltd., Faridabad) through M/s. TPM Solicitors & Consultants, New Delhi (hereinafter referred to as the Applicants) alleging dumping of Plain Medium Density Fibre Board (referred to as subject goods) originating in or exported from China PR, Malaysia, New Zealand, Thailand and Sri Lanka (referred to as subject countries) and requested for initiation of Anti Dumping investigations for levy of anti- dumping duties on the subject goods.

2. And whereas the Authority on the basis of sufficient evidence submitted by the applicant on behalf of the domestic industry, after examination of the same with regard to adequacy and accuracy issued a Public Notice dated **6th June, 2008** published in the Gazette of India, Extraordinary, initiating Anti-Dumping investigations concerning imports of the subject goods originating in or exported from the subject countries in accordance with the Rule 6 (1) of the Rules to determine the existence, degree and effect of alleged dumping and to recommend the amount of Anti Dumping Duty, which, if levied, would be adequate to remove the injury to the domestic industry.

3. And whereas The Designated Authority having regard to the Act and Rules investigated and recommended imposition of provisional Anti Dumping Duty on imports of Plain Medium Density Fibre Board from 6MM thickness and above (hereinafter referred to as subject goods) falling under heading 4411 of the First

Schedule to the Customs Tariff Act, 1975 (51 of 1975) originating in or exported from China PR, Malaysia, New Zealand, Thailand and Sri Lanka vide Preliminary Findings of even number dated 2nd February, 2009 and Provisional Anti Dumping Duty was imposed on the subject goods vide Customs Notification No.21/2009-Customs dated 27th February, 2009.

4. And whereas Shri A.K. Gupta, M/s. TPM Solicitors & Consultants, New Delhi vide letter dated 10th July, 2009 has informed the Authority that under the instructions from the Petitioners, they withdraw their application in respect of New Zealand under Rule 14 of the Rules in view of the fact that imports from New Zealand are primarily present in a market segment where the domestic industry is not offering the material in significant volumes at present. M/s. APJ SLG Law Office, New Delhi has stated that domestic industry has not been given any right to pick and choose or drop a country for investigation in terms of the provisions of other sub-section of Rule 14 and present investigation can either be withdrawn fully or be continued against all the subject countries for which the case was initiated. The Authority has noted that the domestic industry have withdrawn their application in respect of New Zealand in view of the fact that imports from that country were primarily present in a market segment where the domestic industry was not offering the material in significant volumes. The Authority has noted that the domestic industry has admitted that imports from New Zealand were not causing injury to them while earlier they have argued that imports from New Zealand were also causing injury. M/s. APJ SLG Law Offices have failed to produce any evidence that injury were not caused by the imports from the subject countries. The Authority accordingly allows withdrawal of application in respect of New Zealand under Rule 14 of the Rules and after exclusion of New Zealand, restrict Anti Dumping Investigations concerning imports of Plain Medium Density Fibre Board from 6MM thickness and above (hereinafter referred to as subject goods) from China PR, Malaysia, Thailand and Sri Lanka (hereinafter referred to as subject countries).

A. PROCEDURE

5. The procedure described below has been followed:

- (i) The Authority notified to the Embassies/Trade Representatives of subject countries in India about the receipt of application alleging dumping of subject goods made by the Applicants before proceeding to initiate the investigation in accordance with sub-rule (5) of Rule 5 supra;
- (ii) The Authority sent copies of Initiation Notification dated 6th June, 2008 to the Embassies/Trade Representatives of the subject countries/territories in India informing about the initiation of the investigation in accordance with Rule 6 with a request to advise the exporters/ producers in their respective countries to respond to the questionnaire within the prescribed time. A copy of the letter and questionnaire sent to the exporters/producers and Non-Confidential Version of the application were also sent to them, along with the names and addresses of the known exporters from the subject countries as per the addresses made available by the applicants.

- (iii) The Authority sent copies of Initiation Notification dated 6th June, 2008 along with non-confidential version of application as well as exporter's questionnaire to the known producers/exporters of the subject countries as per the addresses made available by the applicants and requested them to provide relevant information and make their views known in writing within 40(forty) days of Initiation Notification.
- (iv) The Authority sent copies of Initiation Notification dated 6th June, 2008 along with importer's questionnaire to the known importers and domestic industries as per the addresses made available by the applicants and requested them to provide relevant information and make their views known in writing within 40(forty) days of Initiation Notification.
- (v) The applicants requested the Authority to treat China PR as a non-market economy country for the purpose of present investigations. The Authority informed the known exporters from China PR that it proposes to examine the claim of the applicants in the light of para (7) & (8) of Annexure-I of the Anti-Dumping Rules as amended. The concerned exporters / producers of the subject goods from China PR were therefore advised to furnish necessary information/sufficient evidence, as mentioned in sub-paragraph (3) of paragraph 8 to enable the Authority to consider whether market economy treatment should be granted to the cooperating exporters/producers who could demonstrate that they satisfy that market conditions prevail in their case.
- (vi) The Authority sent questionnaire, to elicit relevant information to the following known exporters in subject countries in accordance with Rule 6(4):
1. Tomrich International Trading Limited RN 803, No. 309, Fushan Road, Pudong, Shanghai, China PR
 2. Nanjing ETAI Trading Co Limited, Room 202, No 14 Jinshajing Nanjing, China PR
 3. Linyi Hongfu Timber Co Limited, Yitang Town, Linyi Shandong, China PR
 4. Shouguang Guihe Economic and Trade CO Limited
The west of Shengcheng Street, Weifang, Shandong,
CHINA PR
 5. Linyi Baideli International Trade Co Ltd.
Nan Lou Zone, Yitang Town, Lanshan District,
Linyi City Shandong
China PR

6. Zhanjiang Kingstar Building Material Co Limited
2/F, Building A, Ziwei Garden, No 41, Haibin Road 3,
Zhanjiang Guangdong
China PR.
7. Wenzhou Timber Group Co. Ltd., 42, Wenjin Road
Wenzhou Road, Zhejiang, China PR
8. Daiken Sarawak Bdh. Sd.
Lot 2069,
Block 26, Kidurong Industrial Estate,
97008, Bintulu
Sarawak Malaysia
9. Merbok MDF Lanka Pvt Limited
Perth Estate,
BOI Horana EPZ
Ratnapura Road,
Horana 12400 Sri Lanka
10. Khon Kaen MDF Board
3003, Moo 6, Taeparak Road,
Taeparak, 10270, Muang
Samutprakan
Thailand
11. Siam Fibreboard Co Limited
417/112-113 Karnchanavanich Rd.,
Tumbol Patong,
Amphur Haadyai,.
Songkhla 90230,
Thailand

(vii) In response to the Initiation Notification the following exporters/producers from the subject countries have responded to the questionnaire.

- (1) M/s. Evergreen Fibre Berhad (EFB)
Batu 11 ½, Jalan Masai 81750 Masai,
Johor, Malaysia
- (2) M/s. Evergreen Fibre Berhad (JB) SDN. BHD
Batu 11 ½, Jalan Masai 81750 Masai,
Johor, Malaysia.
- (3) M/s. Robin Resources (Malaysia) Sdn Bhd
No.1, Jalan Industri 5,
Taman Perindustrian Temerloh
28400, Mentakab, Pahang.
Malaysia.

- (4) M/s. Segamat Panel Boards Sdn Bhd
Plot 201 Kawasan Perindustrian Segamat II,
Mukim Pogoh, 85000 Segamat,
Johor, Malaysia.
- (5) M/s. Siam Fibreboard Co Limited
417/112-113 Karnchanavanich Rd.,
Tumbol Patong,
Amphur Hatyai,.
Songkhla 90230,
Thailand
- (6) M/s. Advance Fibre co., Ltd.
100/1 Varasombat Building, 18th Fl.,
Rama 9 Road, Huaykwang,
Bangkok 10310
- (7) M/s. Metro Fiber co. Ltd.
Manufacturers-Exporters-Importers
9/9 Moo 5, Waineo-Dongsak Road, Tamaka,
Karnchanaburi 711 20, Thailand
- (8) M/s. Metro M.D.F. Co. Ltd.,
74 Moo 2, Nonthaburi-1 Rd., Bang Ka So,
Nanthburi 11000 Thailand.
- (9) M/s. Vanachai Group Public Co. Ltd.
Thailand
- (10) M/s. Vanachai Panel Ind. Co. Ltd.
Thailand
- (11) M/s. Dongwa Fibre Board Sdn. Bhd.& related company Dongwa
MDF(M) Sdn. Bhd., Malaysia
- (12) M/s. Merbok MDF Lanka Pvt Limited
Perth Estate,
BOI Horana EPZ
Ratnapura Road, Horana 12400 Sri Lanka

(viii) A questionnaire was sent to the following known importers/user associations of the subject goods for necessary information in accordance with Rule 6(4).

- (1) PLY POINT
15/228, Kodampuzha Road
Petta
Feroke, Kozhikode
Kerala

- (2) LABEL SALES CORPN
Indradhanush Apartment
Shope No. 7,8 & 9
T.D.Road
Cochin, Kerala
- (3) SRIVARI TRADERS
136/53B, Ooty Main Road
Odanthurai
Metupalayam
Tamil Nadu
- (4) KRISHNA PLYWOODS
34 Kamraj road
Karur
Tamil Nadu
- (5) THAMARAPALLY BROTHERS
XL/499 Usha Kiran
M.G.Road
Ernakulam
Kochi, Kerala
- (6) JACSONS VENEERS AND PANELS P.LTD
XL/499 Usha Kiran
M.G.Road
Ernakulam
Kochi, Kerala
- (7) KALINGA IMPORTS & EXPORTS Pvt..Ltd
18/777 Kallai Road, Calicut, Kerala
- (8) VICTORY PLYWOOD DISTRIBUTORS
R.No.148, CE-34/640
Stadium Complex, Kannur, Kerala
- (9) MATHEWSONS EXPORTS & IMPORTS P.LTD
44/2158, First Floor
Mathewsons Bldg.,
Kaloor
Cochin, Kerala
- (10) FEROKE BOARDS LTD
VP 4/394, P.O. Kaarad
Faroke College
Via- Malappuram
Kerala

(11) R.J.METALS
XL/4039 Faba Complex
Jews Street, Ernakulam
Cochin, Kerala

ix. In response to the above notification the following importers/interested parties have filed their submissions.

1. M/s. Spacewood Furnishers Pvt. Ltd.
T-48, MIDC Road,
Nagpur-440 016
2. FEROKE BOARDS LTD
VP 4/394, P.O. Kaarad
Faroke College
Via- Malappuram, Kerala.
3. M/s. Venugopala Slate Industries,
Nehru Street, Markapur-523316
Andhra Pradesh
4. M/s. Kutty Flushdoors and Furniture Co. Pvt. Ltd.
1167 (Old No.37) Poonamallee High Road, Koyambedu,
Chennai-600107
5. M/s. Thamarappally Brothers,
Atlantis Junction, M.G. Road, Ernakulam
Cochin-682015
6. M/s. Moradabad Handicrafts Exporters Association, Jain
Mandir Building, Opposite Kotwali, Moradabad-244001.
7. M/s. C.L. Gupta Exports Ltd.,
18th km. Before Moradabad Delhi Highway,
Village Jival, J.P. Nagar-224221.
8. Joint Development Commissioner,
Noida Special Economic Zone,
NOIDA Dadri Road, Phase-II, NOIDA-201305.

x. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of imports of subject goods for the past three years and for the period of investigation. Information received from the DGCI&S, has been relied upon in the present findings.

- xi. The Authority kept available non-confidential version of the evidence presented by various interested parties in the form of a Public File maintained by the Authority and kept open for inspection by the interested parties as per Rule 6(7). A copy of the non-confidential application was also provided to other interested parties, as requested.
- xii. The Authority has verified the information furnished by the Domestic Industry to the extent possible to examine the injury suffered and to work out optimum cost of production and cost to make and sell the subject goods in India on the basis of Generally Accepted Accounting Principles (GAPP) and the information furnished by the applicants so as to ascertain if Anti Dumping Duty lower than the Dumping Margin would be sufficient to remove injury to the domestic industry.
- xiii. In accordance with Rule 6(6), the Authority also provided an opportunity to all interested parties to present their views orally in a Public Hearing held on 20th April, 2009. In the Public Hearing certain interested parties requested to allow them to make their specific submissions and they were allowed to submit their submissions upto 27th April, 2009. The interested parties who presented their views in the Public Hearing were requested to file their written submissions of the views orally expressed on 4th May, 2009 with exchange of written submissions on the said date and to submit their rejoinders on 11th May, 2009.
- xiv. *** in this Statement represents information furnished by an interested party on confidential basis and so considered by the Authority on merits under the Rules.
- xv. The Period of Investigation (POI) for the purpose of the present investigation is 1st January, 2007 to 31st December, 2007 (12 months). The examination of trends in the context of injury analysis cover the period from 2004-05, 2005-06, 2006-07 and the Period of Investigation.
- xvi. The Authority provided opportunity to the importers/ industrial users of the product under consideration to furnish information considered relevant to the investigation regarding dumping, injury and causality.
- xvii. The Authority in this case has considered the data relating to customers' price and costing as confidential as the disclosure of the same may give the competitive advantage to the other interested parties. The data relating to volumes of domestic industry has not been treated as confidential.

B. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

6. The product under consideration is Plain Medium Density Fibre Board also known as Plain MDF Board in market parlance. Plain Medium Density Fibre Board, or Plain MDF Board is a composite wood product made out of wood waste fibres glued together with urea formaldehyde resin or melamine resin, heat and pressure. It is widely used for partitions, Modular furniture, cabinets etc. due to its smooth and uniform finish. MDF Board is produced in plain form and lamination is additional processing which is done after production of Plain MDF Board. The laminated

Medium Density fibre Board (laminated MDF Board) is beyond the scope of product under consideration. The Authority in its Preliminary Findings considered the submissions received on the product under consideration and after due examination excluded the Plain Medium Density Fibre Board below 6MM thickness from the product scope and accordingly the product under consideration was considered as Plain Medium Density Fibre Board from 6MM thickness and above and same is also considered in this investigations.

7. The product is classified under heading 44.11 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975). The Customs classification is, however, indicative only and in no way binding on the scope of the present investigation.

B.1 Views of the interested parties:

8. The following submissions were raised post initiation by various interested parties:

- (i) The main issue of the producers/exporters, namely M/s. Metro MDF, M/s. Metro Fibre, M/s. Advance Fibre, M/s. Siam Fibre, M/s. Evergreen Fibre Board (EFB), M/s. Evergreen Fibre Board (JB) and M/s. Segamat Panel Board have been that the domestic industry in India neither produce the subject goods below 6MM thickness nor they have appropriate technology for producing thinner sizes in a commercially efficient manner. Therefore, the thickness not manufactured in India ought to be excluded and the present investigation be restricted to above 6MM thickness only. **M/s. Venugopala Slate Industries, Markapur, Andhra Pradesh** have stated that the domestic industry do not have the potential to manufacture 2.5 MM thickness Plain MDF and they import 2.5 MM Plain MDF Board to manufacture and market writing slates in the country. **M/s. Kutty Flush Doors and Furniture Company Pvt. Ltd., Chennai** have stated that they import Door Skins which is described as fibre board sheets for Moulded Panel Door Shutters typically 2.8 MM or 3.2 MM thickness with density 1000 kg./CBM. or around and the product imported by them is entirely different from the product under investigation.
- (ii) One constituent of the domestic industry have submitted that its plant is capable to produce MDF of 4MM thickness and above. In fact, they produced MDF of 4MM thickness during 2003-04 i.e. prior to the injury period, while during the injury period, they produced MDF boards of 6MM thickness and above. The domestic industry vide its letter dated 5th January 2009 has submitted that MDF boards of thickness up to 5MM may be excluded from the scope of the investigation

- (iii) M/s. Thamarapally Brothers, Ernakulam has stated that local MDF is prone to severe attacks from fungus, borer, termite etc. and its screw holding capacity is very poor.
- (iv) M/s. Spacewood Furnishers Pvt. Ltd. Nagpur has stated that identifying the product at four digit of HS Code has potential to mischief in treating all other fibre boards as MDF without any clear definition of MDF in terms of density, surface covered or not and mechanically worked or not.

C. Like Article

9. With regard to like article, Rule 2(d) 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;

10. The applicants have claimed that there is no known difference in the product under consideration produced by the Indian industry and exported from subject countries. The product under consideration produced by the Indian industry and imported from subject countries are comparable in terms of characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers are using the two interchangeably. The applicants have also made following submissions:

- (i) Difference in raw materials does not render two-product dislike. What is relevant to examine is whether essential product properties are different as a result of difference in raw materials. On this account, it is not even a claim of the interested parties that the product properties differ based on raw materials.
- (ii) That the argument that Higher sizes (beyond 1220MMX2440MM) not produced in India is factually incorrect. Higher sizes of MDF have been produced by one of the petitioner company.
- (iii) Notwithstanding, the legal requirement is whether the domestic industry is offering like article. Mere difference in size of MDF cannot render them dislike.
- (iv) That the Low emission standards MDF boards are not produced in India is without basis. Due to availability of dumped product, the consumers have not even demanded this from the domestic industry. Notwithstanding, production of Plain MDF with particular emission standards is a matter of using right formaldehyde resin. The formaldehyde resin is not a proprietary

item. The domestic industry can use relevant formaldehyde resin and produce Plain MDF meeting desired emission standards.

(vi) That so far, none of the opposing interested parties have been able to establish that the imported product and domestic product are dislike article.

11. The following submissions and issues have been raised by the various interested parties.

(a) The Association of Furniture Manufacturers of India (AFMI) have made following submissions:

(i) That the Indian industry neither produces nor has a capability to produce specialized MDF required by the furniture industry as low formaldehyde emitting (LFE) MDF is a mandatory requirement in the wood composites used in the furnitures and export of furnitures require mandatory compliance to entire Europe with the regulations of California Air Resources Board (CARB).

(b) M/s. Merino Panel Products Ltd., Distt. Jhajjar, Haryana have raised issues on Like Article, Reference Price, Reference Price in US\$, NIP, public interest and WTO Agreement and have also made following submissions:-

(i) That four digit HS Code 4411 covers all fibre boards and therefore to define the MDF at least in terms of density or HS Code at 8-digit level be defined to remove any doubt or ambiguity.

(c) M/s. Spacewood Furnishers Pvt. Ltd., Nagpur have raised issues on Like Article, Reference Price, Reference Price in US\$, NIP, public interest and WTO Agreement and have also made following specific submissions:-

(i) That there is no conscious determination that MDF produced by the Indian MDF companies meets the technical, physical and chemical properties requirement of their industry and domestic MDF is different than the MDF their industry requires and by no means, same are entirely inter-changeable.

(ii) That even if the domestic industry produces 6MM thickness MDF, there is no evidence of such production in the ordinary course of business and there is no demonstration of the fact that the production of thickness less than 8MM was economically viable even with the limitations of Day Light Presses in producing the thin panels of range less than 8MM.

12. The Authority has noted that the interested parties have raised large number of arguments on product under consideration and like article and same have been dealt in detail at Para E.20 of this Final Findings. The Authority after due consideration of the submissions made by the interested parties has determined that the subject

goods produced by the petitioner companies are like articles to the subject goods imported from subject countries in accordance with the Anti-Dumping Rules.

D. Domestic Industry and Standing:

13. The petition has been filed by M/s. Shirdi Industries Limited, Mumbai and M/s. Nuchem Limited - Faridabad. Apart from the applicants, M/s. Mangalam Timber Products Limited has also been a producer of the product concern during Period of Investigation. The Authority has noted from the transaction-wise information of imports received from DGCI&S that M/s. Mangalam Timber Products Limited has imported subject goods from the subject countries. An analysis of exporter responses have made it evident that M/s. Mangalam Timber has imported significant quantity *** CBM of subject goods from the subject countries. It is also found true that M/s. Shirdi industries has been an importer of subject goods in the past but their plant was commissioned only during April 07 i.e. within the Period of Investigation. During POI, M/s. Shirdi Industries Limited imported subject goods (6 MM thickness and above) to the extent ***CBM only, which is far less than 1% of the total sales of the domestic industry.

14. The applicants have made following submissions:-

- (i) No import orders have been placed by M/s. Shirdi Industries Limited during the Period of Investigation. The goods received during POI were ordered much before and shipments arrived has been *** CBM of Plain Medium Density Fibre Board from 6MM thickness and above and cleared during the Period of Investigation against such orders. It may be noted that M/s. Shirdi Industries Limited is a new company which entered into production during Period of Investigation and the group was earlier involved in imports of the product under consideration.
- (ii) With the commencement of the production, **M/s. Shirdi Industries Limited** has stopped imports and increased its own production. Indeed, the exclusion discretion under Rule 2(b) is meant for such situations only. Exclusion should be made only when the focus of a company shifts from production to imports. In the present case, the focus has shifted the other way. i.e. from imports to domestic production.
- (iii) The position of M/s. Mangalam Timber Products Limited is just opposite to M/s. Shirdi Industries Limited. M/s. Mangalam Timber Products Limited have been into production of the product under consideration and found it more lucrative to import the product at dumped prices and sell the same in the domestic market and thus shifted focus from production to imports.
- (iv) That large scale imports made by M/s. Mangalam Timber Products Limited fully justify their exclusion from the domestic industry.

15. There are arguments from the interested parties that the complainants do not constitute the domestic industry as defined under Rule 2(b) of the Customs Tariff

Rules, 1995 as one of the complainants namely M/s. Shirdi Industries Limited has been engaged in import and trade of subject goods from the subject countries. Further, M/s. Mangalam Timber Products Limited have been the major manufacturer of the subject goods and have reported profits and they have been deliberately kept out of the present investigation in order to present distorted data.

D.2 Facts before the Designated Authority

16. The Authority has noted that there were three domestic producers during the Period of Investigation namely M/s. Nuchem Limited, M/s. Shirdi Industries Limited and M/s. Mangalam Timber Products Limited. Out of these three domestic producers, the first two are applicants and imports made by M/s. Shirdi Industries Limited during **Period of Investigation** is to the extent of ***CBM only which is far less than 1% of the total sales of the domestic industry. Further, M/s. Shirdi Industries Limited was an importer before **Period of Investigation** and stopped imports before commencement of production.

17. Having considered all the aspects and based upon the information on record, the Authority has noted that the production of the applicants constitute a major proportion in the Indian production during Period of Investigation, as is evident from the table below:-

Petitioner's production CBM	Other Indian producer's production CBM	Total Indian Production CBM	Share of Petitioners in Indian Production CBM
***	***	***	65.79%

18. The Authority therefore has noted that the petition satisfies the condition of standing under the Rules and the petitioner constitutes "domestic industry" within the meaning of Rule 2(b) and Rule 5(3) (a) of Anti-Dumping Rules.

D.3 De-Minimis Limits:

19. The petitioners provided import statistics from two sources in the application with DGCI&S data covering upto 30th June 2006 and Info-Drive service, covering the entire injury period. Subsequently, DGCI&S statistics covering the entire injury investigation period was called by the Authority. The transaction wise data for the injury period has been received from the DGCI&S and has been considered to determine CIF export price. The Authority has noted that the quantities imported from each of the subject countries during the POI were above the de minimis limits prescribed under the Rules.

E. Other submissions and issues raised

20. A large number of submissions have been made and issues raised by the various interested parties and they have been taken into consideration in this Disclosure Statement. The specific submissions and issues raised by the interested parties are as under:-

E.1 Submissions of APJ-SLG Law office (on behalf of Evergreen Fibreboard – Malaysia, Evergreen Fibreboard (JB) – Malaysia, Siam Fibreboard – Thailand, Robin Resources – Malaysia, Segamat Panel Board – Malaysia, Advance Fibre Co. Thailand, Metro Fibre Co. Thailand, Metro MDF Thailand)

- (i) The statement given by the petitioner in Causal Link that there is no difference in technology employed by the petitioner and exporters in subject countries is incorrect. Industry does not have capability to produce MDF exceeding 8'X4'. Statement given in the petition regarding production of board as per requirement of size of user is incorrect as industry cannot produce boards bigger than 8'X4'. Misleading and wrong statement is given with regard to thickness also. Imports data includes products which are not manufactured in India. Imports below 6MM should be removed from dumping and injury analysis.
- (ii) In market share analysis, entrance of new producer should be kept in mind, who has taken over significant share of market. Further, performance of M/s. Mangalam has improved, who is not participating in the investigation. No analysis is given with regard to substitution effect. MDF is substitutable to plywood, laminated board, other engineering boards etc. These are competing the MDF in market. Capacity and production have increased, hence there is no injury. Increase in imports is due to abnormal increase in demand and also due to inclusion of thickness below 6MM. Financial performance of the domestic industry is de-linked with the imports as domestic industry has been incurring losses throughout injury period. No confidentiality can be claimed on inventory levels and methodology thereof. There is clear absence of causal link between dumping and injury as M/s. Nuchem has been operating poorly due to several financial problems, which is acknowledged by the company in its Annual Report also. M/s. Shirdi Industries Ltd., do not have experience of MDF production and are dependent on technological suppliers from China and any inability to provide support, will affect operations of the company. Further, it is admitted that manufacturing facilities in Uttaranchal is far away from sea port, which would lead to higher cost of transportation. Performance of M/s Mangalam improved in spite of so called dumped imports. Size of plant of domestic industry can not provide economy of scale. M/s. Shirdi industries enjoys various tax benefits, therefore, their products are priced lower than M/s. Nuchem and there is internal competition.
- (iii) It appears that the Designated Authority has determined a single Normal Value for all exporters from Malaysia.
- (iv) That the domestic industry has miserably failed to establish any semblance of injury in the facts and the circumstances of the present investigations.
- (v) It is admitted fact that the domestic industry had given several misleading statements at the time of filing of application.

- (iv) That the manufacturers have moved to Mende or Continuous Presses and this technological advancement is known to all and there is mis-declaration regarding technological advancement.
- (v) That there are deficiencies in the Non-confidential version of the petition.
- (vi) That the written submissions provided by the domestic industry are not serially numbered making it difficult to offer para-wise comments as required by the Hon'ble Designated Authority in terms of the Trade Notice No. 1/2007 dated 22nd October 2007.
- (vii) It is disputed that difference in raw material would not render the two product dislike. The difference in raw material is resorted to by the producer keeping in view the end applications of the ultimate consumer. The MDF made by raw material of a particular type cannot substitute MDF made out of different raw material keeping in view the end application and requirement of the consumer in mind. Further, it is submitted that the final products made would be dissimilar in terms of their colour and also the price as the price of the wood also differ significantly. The submissions of the Domestic Industry are therefore required to be rejected.
- (viii) The domestic industry has disclosed for the first time that they are producing higher sizes than 8'X4' and the evidence in this connection has not been provided to the Authority.
- (ix) The submissions of the Domestic Industry on quality need to be rejected as the approach proposed by the Domestic Industry is in contrast to approach adopted in other cases.
- (x) The submissions of Domestic Industry on low emission standards are without any substantiation are hence required to be rejected. .
- (xi) The domestic industry has stated that M/s Shirdi has not made any imports in the Period of Investigation and the goods received by it in Period of Investigation were ordered much before. In this connection, it submitted that the Authority has examined the imports of M/s Shirdi only in the Period of Investigation as 1% of the total domestic industry sales. However, no examination of the imports made by M/s Shirdi in the previous years has been done. We would request the Authority to kindly also carry out the examination of the imports made by M/s Shirdi in the previous three years. It is also submitted that a domestic producer after importing huge quantities cannot come before the Authority and claim that it is injured because of the imports. In view of the above, we would request the Hon'ble Designated Authority to kindly exclude M/s Shirdi from the purview of the domestic industry. The analysis of import volume for period of investigation and for injury investigation period is also flawed due to inclusion of such imports. While

making such arguments, the Domestic Industry in the same breath has justified exclusion of M/s. Mangalam. It itself goes to show that the arguments are based on presumptions, assumptions, conjectures and surmises. Such arguments cannot form the basis of any conclusions and hence must be rejected.

E.2 Submissions of M/s. Spacewood Furnitures Pvt. Limited:

- (i) Product made by domestic producers lack consistency, quality and safety standards, which constrained us to procure MDF from other countries. Uses of fibre board broadly depends upon porosity, surface soundness, routability, brightness, pointability, printability, profiling, limits of harmful formaldehyde chemical emissions, sustainable moisture resistance, hydro-expensivity, stability and flatness of panel, uniformity of dimensional features, true panel density profile, fiber to panel compression ratio, resin load etc. Domestic products are nowhere near the international products in terms of these parameters. None of the domestic products confirm the formaldehyde standards. Domestic producers produce fibre board of limited thickness and sizes, whereas requirement of user industry is manifold. None of the petitioner produces below 8 MM thickness as per their product brochure. Our sourcing decision is not just price alone. It is suitability, functionality, and several other attributes of quality besides the performance value. If all fibre boards, as claimed, are same, there should be no compulsion on our part to import and spent at least 20% more value. M/s. Shirdi is setting up a lamination plant in Chennai to feed its furniture component plant with imported boards as raw material. For their own captive consumption, they are not relying on their own product.
- (ii) There is no causal link between injury and imports. The complainant earlier has unsuccessfully attempted to bring the goods falling under chapter 4410 and 4411 under negative list of imports. It is financial strength and operational economics between MDF industry and pulp paper industry to determine price and availability of raw material to other segment. M/s. Nuchem is in MDF business since last 25 years and Resin over 50 years, however, since past many years, they never declared any taxable profits, which shows that their operations were never profitable even before imports commenced. Cause of injury to two petitioner lies elsewhere and not in imports as other domestic producer M/s. Mangalam shows profits. Present investigation profound bearing and long term policy implications and may result in various socio economic and ecological problems. Present investigation is also contrary to the WTO Agreement on forest products.
- (iii) Housing is another priority, high growth and job creating sector of Indian economy and providing affordable houses to all. Imposition of ADD on MDF board would lead to increase in imports of Modular furniture.
- (iv) That there is no conscious determination that MDF produced by the Indian MDF companies meets the technical, physical and chemical properties

requirement of their industry and domestic MDF is different that the MDF their industry requires and by no means, same are entirely inter-changeable.

- (v) That the threat of material injury to the domestic industry obviously lies solely in the fact that a bad and sub-standard product loses acceptability of consumers on the face of a good and performing product.
- (vi) That a single compelling reason in favour of methodology to determine normal value under sub-rule(i) of 9 (1)(c), there are abundant and numerous cogent reasons why the international price in terms of Rule 9(1)(c)(ii) should not be adopted as the basis in determining of dumping margin on the face of challenge that such sales in the home market were not in ordinary course.
- (vii) That in the Preliminary Findings the Authority has not considered the landed cost at the customs border at ICD destinations like Nagpur and Delhi but confined it to Ocean Ports of Discharge and the injury margin has been unduly escalated without any regard to their submissions made on 15.10.2008. Moreover, inland haulage involving movement of product to ICD destinations alone wipes out the injury margin considerable for most with a request to afford them an opportunity of judicial scrutiny by recording reasons in not accepting their request to compare the landed cost at the Customs Port where the subject goods are delivered and enter the stream of trade rather than an ocean customs post where the cargo is discharged from an ocean vessels in transit to customs post at ICD destinations where the same is actually assessed to customs duties and received by an importer.
- (viii) That the extraordinary changes in Rupee dollar exchange rate affecting the landing cost has escaped attention and examination and there is no basis to treat the US\$ as currency of home market of exporter or importer.
- (ix) That M/s. Shirdi Industries Ltd. came into existence when the imports of MDF initiated by M/s. Shirdi only were a market reality and no case has been made out by M/s. Shirdi or the DI to exemplify any unforeseen development of critical nature affecting its projections of the MDF industry set up by them that the blame for failure solely attributable to factors other than dumping should have escaped its examination by the Authority.

E.3 Submissions of The Association of Furniture Manufacturers of India

- (i) That the Indian furniture manufacturers also import the product under consideration for manufacturing of furniture to domestic, institutional, deemed exports and SEZ Units and Anti Dumping proposal shall adversely affect the furniture industry.
- (ii) That the data on input costs as furnished by domestic producers are tailored to the objectives in the demand of Anti Dumping Duty.
- (iii) That there are over 10,000 big & small furniture factories throughout India in both organized and unorganized sector and the furniture industry and its

ancillaries have invested over 5,000 crores in setting up of the production facilities with direct employment over 10,000 workers.

- (iv) That the causal link, if any, is in non-sustainable resources in wood on account of ban on felling of soft wood trees in the country by the Hon'ble Supreme Court.
- (v) Whether the Government of India will be in a position to confer immunity – both fiscal and criminal, to the fabricators and re-sellers of the Furniture in India against liability arising out of and in consequences of in discriminatory usage of sub-standard non performing products made with domestic MDF as mandate in the order?
- (vi) The measures Government intends to take to ensure a level playing field for the Indian Furniture Industry and its ancillaries against imports of Laminated Board and furniture where the Anti Dumping measures or Safeguard measures would fail to sustain lawfully.
- (vii) The Indian furniture industry and its ancillaries have invested huge funds with large employment and fate of investments made and employment generated shall undoubtedly be under great risk.

E.4 Submissions of M/s. Bajaj eco-tec products Ltd., Mumbai

- (i) **M/s. Bajaj eco-tec products Ltd., Mumbai** have stated that they have commenced commercial production on 1st April, 2008 and are forced to sell the product at much lower prizes and no producer can sustain its operations based on so low prizes and have supported the petition for imposition of Anti Dumping Duty on dumped imports of the subject goods.

E.5 Submissions of M/s. Moradabad Handicrafts Exporters (Welfare) Association, Moradabad

- (i) It is stated that no Indian producer has the technology and capability to manufacture toxic free MDF in India, whereas it is mandatory requirement of most developed countries in the world where they export their products made out of MDF to satisfy the VOC (Volatile Organic Chemicals) emission free requirement in MDF with low formaldehyde emission level E1 and E0. They have further stated that the domestic industry does not manufacture the subject goods of a thickness below 6 MM while their exporters have bulk demand for thickness range of 2.5 MM to 3.5 MM.

E.6 Submissions of The Federation of Thai Industries:

- (i) That they believe that the Indian MDF Manufacturers do not offer (i) thin MDF of thickness below 6 MM (ii) low formaldehyde MDF and (iii) bigger sizes MDF such as 6'x8' and 5'x9'.
- (ii) That they have also proposed that (i) MDF with mechanically worked or surface covered (not Plain MDF) (ii) High Density Fibre Board 4411.92.00 and Low Density Fibre Board 4411.94.00 should be excluded from the product under consideration and they have enclosed a list enlisting the details thereon.

E.7 Submissions of Department of Foreign Trade on behalf of the Royal Thai Government

- (i) That they would like to know whether the products (i) thin MDF (**thickness** below 6 MM) (ii) Low formaldehyde MDF and (iii) Big sizes MDF such 6'x6' and 5'x9' are covered by the investigation.

E.8 Submissions of M/s. Thamarappally Brothers, Ernakulam:

- (i) That they are engaged in the import and marketing of mixed tropical hardwood MDF which is not manufactured by any domestic manufacturers and the said product has got special characteristics which are most suitable for highly humid locations like Kerala. However, they have not furnished any details in support of their claim.
- (ii) That the panel industry is consisting of particle board, plywood and MDF and their world consumption are in the ratio of 55%, 20% and 25% while in the Indian conditions same are 6%, 90% and 4% and since the plywood production in India is facing shortage of raw material, same will also move as per the World standards.
- (iii) That the domestic industry has filed misleading and false statement and figures showing exorbitant amount as normal value without any base as normal value from Malaysia has been mentioned as US \$ 575.77 per MT.
- (iv) That all the domestic factories are located in North India and transportation cost from M/s. Nuchem factory to Chennai would be around US\$ 75 per CBM while transportation from Port Klang to Chennai is US\$ 20 per CBM only and it may not be feasible for the local factories to cater to southern markets due to the territorial disadvantages.
- (v) That the local made MDF is prone to severe attacks from fungus, borer, termite etc. and its screw holding capacity is very poor. The Preliminary Findings would lead to closer of thousands of small/big furniture making units and the construction industry as a whole and will lead to severe unemployment in the country with opening options for dumping furniture into India.

- (vi) That the audited financial statements of M/s. Nuchem Ltd for the period ending 30th September, 2007 reveal that there is no injury to M/s. Nuchem on account of imports and any loss/cash flow problem but are due to diversion of funds, mismanagement, poor working capital management, poor financial planning and very poor investment planning.
- (vii) That the M/s. Nuchem has approached Company Law Board Northern Bench for rescheduling of repayments of principal amounts of deposits and its MDF Division is still showing profits and its problems have no connection with the alleged dumping.
- (viii) That M/s. Mangalam made windfall profits and M/s. Shirdi have been expanding their manufacturing facilities.
- (ix) That the Preliminary Findings has noted that there has been an increase in the capacity of production as well as production of the domestic industry with improvement in wages, productivity, domestic sales and selling price and do not cause any injury to the domestic industry.
- (x) That they import **mixed tropical hardwood** MDF suitable for coastal areas like Kerala being highly fungus resistance.
- (xi) That the exchange rate was Rs. 39/- per dollar which has now gone up to Rs.52/-.
- (xii) That M/s. Shirdi Industries Ltd. imported subject goods during POI and do not fall under the purview of domestic industry under Rule 2(b) of ADA Rules defining the domestic industry.
- (xiii) That in absence of normal value, importers are denied natural justice, as they are not in a position to challenge the preliminary findings and
- (xiv) That their written submissions have not been considered in the Preliminary Findings.

E.9 Submissions of M/s. Moradabad Handicrafts Exporters Association, Moradabad:

- (i) That no producer from the domestic industry manufacture MDF complying with the requirements of US CARB regarding lower formaldehyde emissions and the new law (CARB) formulated in USA is effective from 1.1.2009.
- (ii) That though the anti dumping duty is not levied on EOUs. It is not possible to be a direct importer of MDF by the member units. Secondly, most of the exporters' source the finished hand crafted products directly from the artisans who fabricate and design the products themselves as a family venture and there are more than 10 thousand families directly engaged in such hand crafting work at their homes down the line.

- (iii) That the levy of anti dumping duty on imported MDF will lead to further problems to the domestic handicraft industry which is already reeling under severe losses on account of gross under utilization of its established capacities during recession.

E.10 Submissions of M/s. C.L. Gupta Exports Ltd., a 100% EOU, J.P. Nagar-244221

- (i) That no manufacturer in India as well as in Asian countries meet the specifications and other parameters to cater the USA and European market as per new conditions and specifications as per their latest guidelines such as CARB and formaldehyde emission to meet the requirement of environmental friendly.
- (ii) That the non-imposition of anti dumping duty will help the exporters in their survival and shall also avoid retrenchment of thousands of work force engaged in export of handicraft products.

E.11 Submissions of The Joint Development Commissioner, NOIDA Special Economic Zone, Noida

- (i) They have forwarded a representation of M/s. C.L. Gupta Exports Ltd., a 100% EOU stating that the said unit is possibly the biggest exporter of handicrafts in India and that Medium Density Fibre Board is extensively used as a raw material for making wooden handicrafts by handicraft units. It has been stated that the subject goods produced by the domestic industry and China PR do not meet the requirements of USA and Europe.

E.12 Submissions of Ministry of International Trade & Industry, Malaysia

- (i) That the period of injury determination (POID) has not been specifically identified.
- (ii) That as M/s. Shirdi Industries Limited was commissioned only during April, 2007 i.e. within the POI, in their opinion injury analysis would not reflect the actual extent of injury suffered by the Petitioners as under normal circumstances.
- (iii) That M/s. Shirdi Industries Limited had imported the subject goods during the POI, the imports of the subject goods from Malaysia by the petitioner may be investigated and Indian producers of the subject goods may be reconsidered to determine domestic industry as per requirement of Article 5.4 of the WTO ADA and injury suffered by the re-defined Indian domestic industry be assessed.
- (iv) That the normal value has been determined for Malaysia as a whole instead of company specific in the Preliminary Findings which is against Article 2.4 of the WTO ADA stating that the Authority should adhere to

Article 2.4.2 of the WTO ADA and establish the existence of dumping margin based on a fair comparison of each cooperating exporter's normal value and export price.

- (v) That in terms of Article 3.5 of the WTO ADA the Authority is required to examine all other known factors in order to conclude that the injury is caused by dumped imports and not by these other factors and Preliminary Findings does not evidence that this requirement has been examined satisfactorily.
- (vi) That analysis of data disclosed in the Preliminary Findings indicates that the Malaysian alleged companies would be imposed with provisional duties higher than the margin of dumping and accordingly the contents of Paragraph 104 of the Preliminary Findings of recommending an imposition of provisional anti dumping duty equal to the lesser of margin of dumping and margin of injury did not materialise.
- (vii) That there is overlapping between the POI and the POID and causation cannot be proven due to inconsistency in the time period used in assessing dumping and injury.

E.13 Submissions of M/s. Merino Panel Products Ltd., Distt. Jhajjar, Haryana

- (i) That they are one of the importers with several others who import for LPM and chemical properties of low formaldehyde emission, soundness of surface for lamination, rout ability, paintability or printability etc. of MDF are the factors in the process of lamination and accordingly issue is quality along that prohibits LPM industry from using domestic boards in LPM application.
- (ii) That the quality standard of domestic industry is in consistence and miserably sub-standard that it has to sell its products at lower prices. It has further been submitted that there is a price gap of almost 40-50% between any two grades and also the fact that over two third of the production is made and sold in the lowest grade in itself is indicative of the lack of acceptability of the product in market places or the complainants inability to produce and sell a good quality product in its own standards.

E.14 Submissions of M/s. Victory Plywood Distributors, Kannur

- (i) That the total production of MDF Board in India is only less than 1/6th of the total demand for the production and there is an estimated annual increase in demand at 30% and accordingly, the manufacturers in India even after with full production capacity can not cater the increased demand.
- (ii) That the petitioners has approached the Authority with inflated figures so as to mislead and make the Authority to impose Anti Dumping duty on Plain MDF Board and that MDF Boards are not sold anywhere in the world at the

rates specified in the Table Annexed to the findings. The Authority has not mentioned in the Preliminary Findings the Normal Value of MDF Board of the subject countries.

- (iii) That imposition of anti dumping duty at the rates specified in the Table annexed to the findings will result into the monopoly of three domestic manufacturers over the market and non-availability of the subject goods which are mainly used in furniture industry will also result in import of furniture at the dumping price.
- (iv) That the exchange rates for dollar to rupee has increased around 33% and hence reference price based on 2007 data and exchange rates will not have any relevance in 2009.
- (v) That the subject goods are not imported at a dumping price and there will be marginal difference in the pricing of the applicants when compared to their sales invoices.

E.15 Examination by the Authority:

21. The Authority has duly considered various submissions and issues raised by various interested parties and has dealt them at appropriate places. At the outset, the Authority has conducted the investigations in accordance with the Act and Rules made therein as referred above. Further, the Authority has relied upon “positive evidences” made available by the interested parties during the course of investigations. The Authority has noted that in case an interested party has advanced arguments without providing positive evidence and where it has not been possible to verify the authenticity and correctness of the argument from public sources, it has not been possible to accept such arguments. The word “positive evidence” specified under article 3.1 has been extensively interpreted by the WTO. In particular, in the matter relating to US-Hot Rolled Steel, the Appellate body dealt in detail the meaning of positive evidence and ruled that the term ‘positive evidence’ relates to the quality of the evidence that authorities may rely upon in making a determination. It has been further explained that the word ‘positive’ means that the evidence must be of an affirmative, objective and verifiable character, and that it must be credible.

E.16 Initiation of investigations:

- (i) Arguments have been raised relating to correctness of the decision to initiate the investigation, disclosure of information in the petition and non- disclosure of documents/material filed by the domestic industry before initiation of investigation in order to ensure compliance with rule 5 of the Rules. The Authority has noted that pre-initiation scrutiny of application is a routine process. Once the petitioner has filed an updated application, incorporating therein information/ submission made before initiation, it is

not necessary that such information forming part of pre-initiation scrutiny of the Authority should be disclosed to other interested parties.

- (ii) The Authority holds that there was sufficient justification to initiate investigation. The investigations were initiated only upon receipt of a written application, which was in the form and manner as specified by the Authority and was supported by relevant and necessary evidence relating to dumping, injury and causal link. The investigations were initiated after determining that the application was made by or on behalf of the domestic industry and after sufficient examination with regard to accuracy and adequacy of the evidence provided in the application and due satisfaction of the Authority that there was sufficient evidence regarding dumping, injury and causal link to justify the initiation of investigations. As held by Appellate body in Mexico Portland Cement case, an anti dumping investigation is a process where quality and quantity of evidence improves as the investigation progresses. The Authority is merely required to satisfy itself that there is sufficient justification to initiate the investigation.

E.17 Recommendations for interim duties

- (i) A number of interested parties have disputed appropriateness of imposition of interim Anti Dumping Duty in the present investigations. The Authority, however, has noted that none of the interested parties have established with evidence why interim duties were not called for in the present investigations. In particular, no evidence has been provided to show that no injury was being caused to the domestic industry during the course of the investigation. The Authority has noted that the WTO Agreement provides for recommendations of interim duties under specified conditions and if the Authority is satisfied that such measures are necessary to prevent injury being caused during the investigations.
- (ii) A number of interested parties have commented on appropriateness of issuance of Preliminary Findings and about the determination made in the Preliminary Findings. The Authority did not find sufficient substance in these arguments because Preliminary Findings do not constitute final determination and to that extent were based on provisional assessment drawn by the Authority.
- (iii) A number of interested parties made a request for disclosure of dumping margin calculations at the stage of Preliminary Finding. The Authority, however, has noted that the Indian Anti-Dumping rules have laid down clear obligation in this regard. Disclosure of essential facts is provided under Rule 16 which reads as follows:

“16. Disclosure of information. - The Designated Authority shall, before giving its final findings, inform all interested parties of the essential facts under consideration, which form the basis for its decision”

- (iv) It is evident from the above that essential facts are required to be disclosed before concluding the investigations. The Rules does not prescribe issuance of disclosure at the stage of preliminary findings.

E.18 Confidentiality of information:

- (i) A number of parties have disputed the confidentiality treatment accorded by the Authority. It is noted in this regard that the Authority is required to consider following information as confidential information:
 - (a) 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
 - (b) Information provided on a confidential basis by the interested parties to an investigation.
- (ii) Confidentiality claims have been made both by the domestic industry and foreign producers and both have objected to confidentiality claimed by other interested parties. The Authority has noted that confidentiality has been accorded only to such information, which satisfies the above criteria. In any case, non-confidential copies have been made available to the interested parties in order to enable them to defend their interest. The Authority, has therefore, held only such information confidential, as was indeed confidential and is permitted under the law and sufficient non confidential summaries have been disclosed to other interested parties.

E.19 Imports by Petitioner:

- (i) A number of parties have repeated their arguments with regard to imports made by one of the petitioner companies and therefore the issue has been re-examined. It is noted that a small volume of 43.06 CBM of the subject goods have been imported by one of the petitioner companies, which has set up a new plant during the Period of Investigation for production of the subject goods, which has been far less than 1% of the total sales of the domestic industry. The Authority has noted that it would not be appropriate to exclude M/s. Shirdi Industries Ltd. from the scope of domestic industry. As regards mis-declaration before initiation, the Authority has noted that the facts on record and circumstances of the present case have not shown a situation that the petitioner deliberately & consciously resorted to mis-declaration, particularly when the volume of imports has been so low and petitioner was

likely to succeed in its claim for consideration as eligible domestic industry in view of the discretion given to the Authority under Rule 2(b). In any case, no prejudice has been caused to any interested party because of such non-disclosure to the facts before initiation.

E.20 Scope of product under consideration and like article –

- (i) A number of interested parties have raised large number of arguments on product under consideration and like article. The argument of the interested parties are essentially directed towards exclusion of following types of Medium Density Fibreboards (MDF).
 - (a) Thin MDF below 8MM
 - (b) MDF with low emission standards
 - (c) Large size panels
- (ii) In view of a number of repeated arguments, the issue has been examined in detail once again after the Preliminary Findings. The Authority has considered that the following are relevant in this regard:
 - (a) The first step under Anti Dumping Investigation is identification of “product under consideration”. It is undisputed position that there are no rules with regard to selection of “product under consideration”. The WTO Appellate Body has also held in US-Lumber V case that there are no provisions under the Agreement with regard to the criteria to be adopted for deciding the product under consideration. To quote the WTO Panel in this case, Article 2.6 defines the basis on which the product to be compared to the ‘product under consideration’ is to be determined. As the definition of ‘like product’ implies a comparison with another product, it seems clear that the starting point can only be the ‘other product’, being the allegedly dumped product. Therefore, once the product under consideration is defined, the ‘like product’ to the product under consideration has to be determined on the basis of Article 2.6. However, in analysis of the *AD Agreement*, no guidance could be found on the way in which the ‘product under consideration’ should be determined.
 - (b) The Authority is required to consider product under consideration considering what is being imported into India. There is no dispute that the types of products for which exclusion has been sought constitute Medium Density Fibre Board (MDF). Since these product types constitute Medium Density Fibre Board, these have been rightly included within the scope of the product under consideration. After determining the product under consideration, the Authority is required to identify/determine whether like article is being offered in India. It is thus evident that the requirement is not that the authority should first identify the product being produced in India and thereafter establish scope of the product under consideration.
 - (c) Some interested parties have suggested seeking help/support from technical/expert bodies. The Authority, however, holds that Anti Dumping Investigations are conducted within the frame work of the Indian Rules and

WTO Agreement. There is no such prescription to seek information/support from outside experts. Moreover, opportunity has been provided to all interested parties to defend their interest and the present Final Findings are based on information & evidence provided by various interested parties. It has been noted that these interested parties have not been able to establish with positive evidence that the product for which exclusion have been sought are dislike products.

(d) Rules defines like product as follows:

“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 an article, another article which although not alike in all respects, has characteristics closely resembling those of the articles under investigation;

(i) Evidently, there are two parts to the above definition – (a) article which is alike or identical in all respects to the imported article; and (b) article which although not like has characteristics closely resembling to the imported article. In other words, the rules itself clearly envisage the situation where an identical article is not produced in India. In a situation where identical article is not produced in India, the Rules do not provide for automatic exclusion of such an article. The Rules provide for considering such other article having characteristics closely resembling.

(e) The Authority has further noted that the Rules provide no prescription on how the Authority should determine whether the domestic article is identical or comparable to the imported article. Widely practiced methodology, however, clearly suggests considering of following factors in examining whether the domestic product is like article to the imported product.

- (i) product specifications, which includes physical & chemical characteristics,
- (ii) manufacturing process & technology,
- (iii) raw materials
- (iv) functions & uses,
- (v) pricing,
- (vi) distribution & marketing and
- (vii) tariff classification of the goods.

(f) On the basis of above mentioned criteria, the Authority is required to come to a conclusion whether the two are technically and commercially substitutable. The Authority has consistently considered the above factors in coming to a conclusion on like article. The same criteria have been applied in the instant case as well. The Authority examined the product types for which exclusion has been sought, whether like article is being offered by the domestic industry and the position is as under:

(i) Product characteristics - The types of MDF for which exclusion has been sought were compared with MDF produced and supplied by the domestic industry. It is noted that the MDF produced and supplied by the domestic industry is comparable in terms of essential product characteristics to the various other types of MDF imported in India. The claim made by various interested parties seeking exclusion of MDF manufactured from tropical hardwood is not sustainable as the end product in either case is MDF and is a like article to the one produced and marketed by the domestic industry. The imported Plain MDF Board can be substituted by the one manufactured by the domestic industry and has therefore correctly being included within the scope of product under consideration.

(ii) Manufacturing process – All interested parties agree that Medium Density Fibre can be produced through following two processes:

- (a) Continuous Process
- (b) Day Light Process

A number of parties argued that thin MDF can be produced only on continuous presses whereas the domestic industry has only day light presses. It was also the argument of the interested parties that continuous process machines give a better quality product. The investigations have in fact shown that thin MDF below 6MM cannot be produced on day light presses. Further, the length of the Board can be controlled on continuous process, whereas the same is fixed in case of Day Light Press. The domestic industry itself, therefore, agreed that Medium Density Fibre below 6MM could be excluded from the purview of proposed duties and the same was done in the preliminary finding.

(iii) Raw-material: The responding exporters as well as other interested parties have not been able to establish how the difference in raw material leads to totally different physical and chemical properties of the two products that the domestic product cannot be used in the absence of imported product and the two are not technically and commercially substitutable. Even when the two are produced from different raw materials, it is noted that the essential product properties of the two remains almost the same. It is to be noted in this regard that mere differences in values of some of the product properties does not mean that the two products are dislike articles. It only means that the two are not identical articles. However, as noted before, merely because an identical article has not been offered by the domestic industry does not mean that the goods produced by them are not like article to the imported article.

- (iv) Functions & uses: All MDF have application in building and construction, furniture, industrial, handicrafts purpose etc. While it is possible that some MDF might have some specific end applications, there is clear overlap in the function and use of different types of MDF. In any case, complete interchangeability by all consumers is never considered as definitive criteria for determination of like product. So long as the two products are having overlapping use, the two have to be considered as like product.
- (v) Tariff classification: Different types of Medium Density Fibre Boards fall in the same tariff classifications.
- (g) Having regard to the above criteria normally applied for deciding whether the domestic industry produces and supplies like article to the imported product and considering the elaborate submissions made by various interested parties, the Authority compared the product catalogues of number of exporters/producers and the domestic industry.
- (h) It is noted that the specifications under various standards and product specifications of the various foreign producers and Indian Producers also specify these parameters. Additionally, a number of specifications also provide for following product parameters –

Core Density
Surface Density
Surface Soundness
Formaldehyde Emissions
Dimensional Stability

- (i) The domestic industry stated that core density, surface density and surface soundness are linked to/related to density of board and are therefore gets addressed by density prescribed under BIS standards. Dimensional stability has not been argued as a critical parameter by any interested party, nor has any interested party claimed differences between the imported and domestic product on the basis of dimensional stability.
- (j) The interested parties have argued that the domestic product is not a like article to the imported product in terms of difference in emission standards. In particular, it has been claimed that MDF with E0, E1 emission standards is not produced and supplied in India. Domestic industry rebutted by stating that MDF with different emission standards is produced by use of appropriate resins. It was argued that E1 and E2 emission standards MDF is produced by use of different grade of formaldehyde resin, while application of MDI resin instead of formaldehyde resin leads to E0 emission standard MDF. Technically, low emission standard can be achieved by use of appropriate resin and therefore, all producers of MDF are in a position to produce and

supply MDF with different emission standards. Commercially, use of different resin or formaldehyde results in use of a more expensive resin thus leading to higher cost and resultant price of MDF.

- (k) Based on the above, the Authority considered the claims of interested parties for exclusion of some types of MDF.
- (i) MDF below 6 MM – The Authority considered whether domestic industry produce and supply MDF below 6 MM or some other product which could be considered as like article to MDF below 6 MM thickness imported in India. The Investigations have shown that different technology and plant & equipment is involved in production of MDF below 6 MM thickness. Since the domestic industry does not possess requisite plant and equipment, it was concluded that the domestic industry was not in a position to produce and supply MDF below 6 MM thickness. At the same time, this product has different end-applications. MDF below 6 MM thickness in general cannot be used by the consumers who otherwise require MDF 6 MM thickness and above. It is concluded that MDF below 6 MM thickness is technologically and commercially not substitutable to MDF 6 MM thickness and above. On the basis of this conclusion, it was considered appropriate to exclude MDF below 6MM thickness in the Preliminary Findings. After careful consideration of the submissions made by various interested parties, the preliminary conclusion in this regard are confirmed in the Final Findings.
- (ii) Low formaldehyde emission MDF –Domestic industry has argued that technically, low emission standard can be achieved by use of appropriate resin and therefore, all producers of MDF are in a position to produce and supply MDF with different emission standards. Commercially, low or no emission standard MDF board merely requires a more expensive resin, thus leading to higher cost and resultant price of MDF .If low emission MDF price be lower than high emission MDF, there can be no dispute that the consumers would readily switch to the cheaper low emission MDF. In other words, if low emission MDF is removed from the purview of proposed measures, according to domestic industry, the dumping would switch to such low emission MDF. It is not the argument of any interested parties that the consumers of Indian MDF cannot switch over to imported low emission MDF, if such imported product be cheaper than domestic product. In any case, there is significant overlap between the two types and even though there may not be complete interchange-ability, it is undisputed that the product involved is interchangeable.
- (iii) Large Size Panels: The responding exporters as well as other interested parties have claimed that the domestic industry do not manufacture MDF Board exceeding sizes 1220x2440 MM (4'x8'). The domestic industry has claimed that they are capable to manufacture large size panels. On analysis of data received from DGCI&S, it has been observed that large

size panels exceeding the size 1220x2440 MM (4'x8') either in width or in breadth or in both have been imported to the extent of 3.15% of the total imports from the subject countries. The domestic industry has stated that if large size panels are kept out of the purview of the investigations, the dumped imports shall occur and cause injury to the domestic industry as higher sizes can be brought into the country and can be cut into lower sizes and this amounts to substitutability. The Authority holds that the large size panels constitute the product under consideration.

F. Methodology for calculation of dumping margin

F.1 Determination of Dumping Margin

F.2 Dumping Margin for Market Economy Countries

22. The Authority has sent exporters questionnaire to various exporters /producers in subject countries as per information furnished by the applicants. In addition, the Authority has sent letters to the Embassies/Trade Representatives of subject countries in India and requested them to ask producers and exporters of product concern in their countries to respond to the Authority. In response, the following producers and exporter have cooperated to the Authority:-

1. **M/s. Siam Fibre Board Company Limited - Thailand**
2. **M/s. Vanchai Panel Industries Company Limited- Thailand**
3. **M/s. Vanchai Group PCL- Thailand**
4. **M/s. Metro MDF- Thailand**
5. **M/s. Metro Fibre- Thailand**
6. **M/s. Advance Fibre- Thailand**
7. **M/s. Merbok – Srilanka**
8. **M/s. Dongwha – Malaysia**
9. **M/s. Robin Resources Malaysia**
10. **M/s. Evergreen Fibre Board (EFB)– Malaysia**
11. **M/s. Evergreen Fibre Board (JB), Malaysia**
12. **M/s. Segamat Panel Boards Sdn. Bhd., Malaysia**

F.3 Dumping Margin for Thailand

F.3.1 Dumping Margin determination in case of M/s. Siam Fibre Board Company Limited

23. **Normal Value**: The Company provided information in various appendices, which was examined by the Authority. The Authority conducted on the spot verification to verify the data submitted by the exporter on 29th & 30th April, 2009 and verification report in that regard was forwarded to the exporter for their comments. After allowing adjustments against the domestic sales as verified by the Investigation Team, the Normal value has been determined as Thai Baht *** per Cubic Meter (CBM).

24. **Export Price:** The exporter have furnished information about export sales in Appendix 2 and submitted revised Appendix 2 showing export sales for the subject goods from 6MM and above. After verification and cross checking with different Appendices, adjustments have been allowed on account of Commission, Ocean Freight, Inland Transportation, Clearing & Handling, sales & marketing and Net Export Price has been determined as US\$ *** per CBM.

F.3.2 Dumping Margin determination in case of Vanchai Panel Industries Co. Limited – Thailand

25. **Normal Value:** The Company provided information in various Appendices, which was examined by the Authority in detail and deficiency letter was issued. The Authority carried out on the spot verification of the producer/exporter on 1st May, 2009 and on verification observed that the Company has significant volumes of domestic sales to related companies but they could not furnish any evidence or justification to the Investigation Team that sales to related companies are at arm's length. The Company purchased resins from related company and it was noted that rates of resin purchased from related company and imported one were close to each other showing that the purchases from related company were at arm's length. On verification adjustments towards commission, credit note, credit cost, packing and inland freight have been allowed and Normal Value has been determined as Thai Baht *** per CBM.

26. **Export Price:** The exporter has furnished information in Appendix 2, and submitted revised Appendix-2 in respect of subject goods from 6MM and above. On verification adjustments have been allowed on account of ocean freight, commission to related company as well as to Indian trader, inland transportation, packing and credit cost and Net Export Price has been determined as USD *** per CBM.

F.3.3 Dumping Margin determination in case of Vanchai Group PCL – Thailand

27. **Normal Value:** The Company provided information in various Appendices, which was examined by the Authority in detail and deficiency letter was issued. The Authority carried out on the spot verification on 2nd May, 2009 and has observed that the Company has significant volumes of domestic sales to related companies but they could not furnish any evidence or justification to the Verification Team that sales to related companies are arm's length. The Company purchased resins from related company and it was noted that rates of resin purchased from related company and imported one were close to each other showing that the purchases from related company were at arm's length. On verification adjustments towards commission, credit note, credit cost, packing and inland freight have been allowed and Normal Value has been determined as Thai Baht *** per CBM.

28. **Export Price:** The exporter has furnished information in Appendix 2, and submitted revised Appendix-2 in respect of subject goods from 6MM and above. On verification adjustments have been allowed on account of ocean freight, commission to related company as well as to Indian trader, inland transportation, packing and credit cost and Net Export Price has been determined as USD *** per CBM.

F.3.4 Dumping Margin determination in case of Metro MDF, Metro Fibre and Advance Fibre - Thailand

29. The Authority notes that while filing their responses to the Initiation Notification, the above said three producers/exporters of Thailand have submitted incomplete information. Whereas information relating to export sales to India along with claimed adjustments have been submitted, other information relating to cost of production, domestic sales and other related information thereon were not submitted by these three producers/exporters. The Authority has sent letters to these companies requesting them to provide information relating to sales in the domestic market and cost of production. No information was however, filed by these companies in this regard. Subsequently, letters were also issued on 18.12.2008 advising these producers/exporters to submit the relevant information required for arriving normal value failing which, the Authority would be constrained to determine normal value based on cost of sales of domestic industry.

30. At the stage of Preliminary Findings, pending verification of data, submitted by these producers/exporters, they were allowed individual treatment to the extent export price claimed by them with various adjustments were allowed subject to verification. Subsequent to issue of Preliminary Findings the Indian representative of these producers/exporters showed the inability of these producers/exporters to get the requisite data verified by the Investigating Team. Therefore, even the information submitted regarding export price to India could not be verified. Therefore, considering these aspects of the case, these three producers/exporters are accorded the non-cooperating status for the purpose of the present investigations.

31. **Normal Value for non-cooperating producers/exporters from Thailand –** Normal value has been determined for individual cooperating producers/exporters concerned. The weighted average normal value has been determined as US\$ *** per CBM for non-cooperating producers/exporters of Thailand.

F.3.5 Dumping Margin determination in case of other non cooperating producers/exporters from Thailand.

32. In case of other non-cooperating producers/exporters from Thailand, export price has been taken as per minimum net export price as determined for cooperating producers/exporters which comes to US\$ ***per CBM.

33. Considering the normal value and export price as discussed above, dumping margin comes as under: -

				US\$/per CBM
Name	SIAM Fibre	Vanachai	Vanachai Group	Others

	Board	Panel		
Normal Value	***	***	***	***
Export Price	***	***	***	***
Dumping Margin	***	***	***	***
Dumping Margin %	4-8	5-9	12-16	26-30

F.4 Dumping Margin for Sri Lanka

F.4.1 Dumping Margin determination in case of Merbok Sri Lanka

34. **Normal Value** – The Authority notes that exporter has provided information in different Appendices, which has been examined and cross-checked by the Designated Authority and a detailed letter was also issued. An analysis of financial statement of the company shows that during 2006, the company was having loan from holding company to the extent of USD ***Million carrying interest rate of ***%. During the POI (since May, 2007) all these loans were transferred as interest free loans. The Authority carried on the spot verification and on verification after allowing adjustments as claimed and verified the Normal Value has been determined as US\$ ***per CBM.

35. **Export Price** – The net export price on verification after allowing adjustments as claimed and verified on account of Commission, Ocean Freight, Sales & Marketing, Inland Transportation, port charges has been determined as US\$ ***per CBM. The exporter has submitted Price Undertaking dated 18th August, 2009 and same has been found in order and feasible.

36. **Normal Value for non-cooperating producers/exporters from Sri Lanka** – The Authority notes that there is only one producer who have cooperated from Sri Lanka. Normal value as worked out for M/s. Merbok Sri Lanka, cooperating producer/exporter is therefore considered as normal value for non-cooperating producers/exporters of Sri Lanka and has been determined as US\$ ***per CBM.

F.4.2 Dumping Margin determination in case of other non cooperating exporter-producer from Sri Lanka.

37. In case of non cooperating exporters/producers in Sri Lanka, Normal value is taken as discussed above, for export price; export price is taken as per lowest export price based on cooperating exporter/producer concerned.

38. Considering the normal value and export price as discussed above, dumping margin comes as under: -

US\$ Per CBM		
	Merbok	Others

Normal Value	***	***
Export Price	***	***
Dumping Margin	***	***
Dumping Margin %	5-9	40-45

F.5 Dumping Margin for Malaysia

F.5.1 Dumping Margin determination in case of M/s. Dongwha Fibreboard Sdn. Bhd. - Malaysia

39. **Normal Value:** In response to the Exporter's Questionnaire, producer/exporter filed a combined response in respect of Dongwa Fibre Board and Dongwa MDF. It was noted by the Authority that M/s. Dongwa Fibre Board has two factories namely Merbok and Nilai while M/s. Dongwa MDF has one factory. It was noted that in Appendix-8 production was shown as ***CBM while sales were shown as *** CBM. The difference in production and sales could be either in the form of inventories or captive transfers but it was nowhere explained. Further, the resin which is one of the major component of input cost was purchased from its related company i.e. M/s. Dongwa Chemical (M) Sdn. Bhd. Accordingly, deficiency letter was issued to the producers/exporters to submit complete reconciliation of production and sales of each plant/factory. It has been seen that there was huge difference between production and sales in respect of Merbok plant. The Authority carried out on the spot verification in respect of Merbok Plant and Nilai Plant during 13th to 15th April, 2009. The Company again supplied revised Appendix-4 showing opening stock, production, sales and closing stocks which were significantly different from the information filed already. The Appendix-7 & Appendix-8 were taken up for verification but the Company intended to submit again revised Appendix 7 & Appendix 8 which was not taken on record by the Verification Team because the Team was deputed to verify the information already filed by the company and not to collect fresh information. The verification team requested the company to produce evidence to show that purchases of resin from related company were at arm's length but company could not furnish any evidence in that regard. The verification team noted that the financial and cost data as filed were not found reliable. The information in Appendix-7 filed in response of Deficiency Letter could not be verified as no supporting/back-up sheets were available.

40. Considering the above facts of the case the Authority holds M/s. Dongwa Fibre Board, the producer/exporter as non-cooperating.

F.5.2 Dumping Margin determination in case of M/s. Dongwha MDF - Malaysia

41. **Normal Value:** The Normal Value has been determined based on the response filed by the Exporter allowing all the adjustments as claimed. The Normal value has been determined as Malaysian Ringgit ***per CBM (ex-factory).

42. **Export Price:** Based on the exporter's response filed by the exporter and allowing all the adjustments, the ex-factory export price has been determined as US\$ ***per CBM.

F.5.3 Dumping Margin determination in case of Robin Resources – Malaysia

43. **Normal Value** – The Company furnished information relating to sales in home market as also cost of production. The Authority carried out on spot verification of the company on 9th April, 2009 and after verification, allowing adjustments as claimed and verified, the Normal Value has been determined as Malaysian Ringgit ***per CBM

44. **Export Price** – The net export price on verification after adjustments on account of Commission, Ocean Freight, Inland Transportation, Clearing & Handling, Bank Charges has been determined as US\$ ***per CBM.

F.5.4 Dumping Margin determination in case of Evergreen Fibreboard – Malaysia

45. **Normal Value** – The Company furnished information relating to sales in home market as also cost of production. The Authority carried out on the spot verification on 10th and 11th April, 2009 of the company and after verification, allowing adjustments as claimed and verified by the team, the Normal value has been determined as Malaysian Ringgit ***per CBM.

46. **Export Price** – The export price after verification allowing adjustments on account of Commission, Ocean Freight, Inland Transportation, Bank Charges as claimed and verified has been determined as US\$ ***per CBM.

F.5.5 Normal Value for non-cooperating producers/exporters from Malaysia:

47. The Normal Value has been determined for individual cooperating producers/exporters concerned and weighted average normal value has been determined as US\$*** per CBM for non-cooperating producers/exporters from Malaysia.

F.5.6 Dumping Margin determination in case of other non cooperating exporter-producer from Malaysia.

48. In case of other non-cooperating producers/exporters from Malaysia, Normal Value has been worked out as discussed above. For export price, export price has been taken as per minimum export price worked out for cooperating producers/exporters. M/s. Evergreen Fibre JB and M/s. Segamat Panel have also responded and submitted that they have exported below 6 MM thicknesses only. The Authority have excluded MDF below 6MM thicknesses from the scope of the product concern and accordingly, these two exporters have not exported subject goods to India.

49. Considering the normal value and export price as discussed above, dumping margin comes as under: -

US\$/CBM

	Dongwha MDF	Robin Resources	Evergreen (EFB)	Others
Normal Value	***	***	***	***
Export Price	***	***	***	***
Dumping Margin	***	***	***	***
Dumping Margin %	18-23	Less than 1%	10-15	22-27

F.6 Dumping Margin for China PR

F.6.1 Dumping Margin determination in case of China PR

50. China PR is non-market economy country and therefore, the Normal Value in case of China PR is required to be determined as per procedure prescribed in Para 7 of Annexure I to the Anti Dumping Rules. The Authority notes that in the past three years, China PR has been treated as a non-market economy country in the Anti Dumping Investigations by the other WTO Members. None of the producers/exporters from China PR have responded to the Authority and there is no claim for treatment of market economy status. Therefore, in terms of Para 7 and 8(2) of the Annexure I of the Anti Dumping Rules, the Authority holds China PR as a non-market economy.

51. **Normal Value** – The Authority notes that none of the producer/exporter from China PR have responded to the Authority. The Authority therefore, have no option but to determine normal value on the basis of cost of production and sales of the domestic industry added with reasonable profit margin. Normal value has been determined as US\$ ***per CBM. As no producer/exporter has responded from China PR, the Authority has worked out normal value based on best information available.

52. **Export Price** – The Authority notes that none of the exporter or producer from China PR has responded to the Designated Authority. The Designated Authority has therefore, determined export price from China PR as per data made available by the DGCI&S. Adjustment have been made on account of Ocean Freight, Marine Insurance. Inland Transport, Port Expenses. After adjustment of the above, export price at ex-works level comes to US\$ ***per CBM.

53. Considering the normal value and export price as discussed above, dumping margin for China PR comes as under: -

Normal Value	***
Export Price	***
Dumping Margin	***
Dumping Margin %	120-125

METHODOLOGY FOR INJURY DETERMINATION AND EXAMINATION OF CAUSAL LINKS

G. Examination of Injury and Causal Link: -

54. Rule 11 of Anti-Dumping 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 are otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.

55. The Authority notes that the application for imposition of Anti-Dumping Duty has been filed by M/s. Nuchem Limited and M/s. Shirdi Industries Limited, who commands a major proportion of total production of subject goods in India. In terms of Rule 2(b) of the Rules they have been treated as the domestic industry for the purpose of this investigation. The Authority also notes that M/s. Mangalam Timber Products Ltd. is also other known producer of the subject goods in India and has been importing the subject goods substantially during Period of Investigation from the subject countries.

56. For the examination of the impact of the dumped imports on the domestic industry in India, indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, stock, profitability, net sales realization, the magnitude and margin of dumping, etc. are required to be considered in accordance with Annexure II of the Rules. All economic parameters affecting the Domestic Industry as indicated above such as production, capacity utilization sales volume etc. are also required to be examined.

G.1. Views of the Domestic Industry:

57. The following are the views of domestic industry:-

- (i) Present petition is for imposition of Anti Dumping Duty against dumped imports of Medium Density Fibre Board from various countries in the Indian market. Dumping of the product in India is not a new phenomenon.
- (ii) The product is being dumped in the Indian market since quite some time. In fact, in whole injury period, the subject goods have been exported to India below normal value.
- (iii) The subject goods has been exported at dumped prices throughout the injury period. Therefore, while analyzing the effect of the dumped imports on the domestic industry, the fact of consistent dumping is required to be considered.

- (iv) M/s. Shirdi Industries Limited is a new producer of the product in the Indian market. The company started production during the Period of Investigation only and faced dumping in its nascent stage.
- (v) Due to commencement of production by M/s. Shirdi industries Limited, various volume parameters may show positive trend. Therefore, while examining injury to the domestic industry, this fact needs to be considered.
- (vi) The production of the participating companies accounts for a major proportion in Indian Production. Participating companies constitute domestic industry within the meaning of the Rules.
- (vii) Margin of Dumping from each of the subject country is more than the prescribed limit. Volume of imports from each of the subject country is more than de- minimus limits. The product involved from various countries is one like product. There is no difference in physical and chemical properties of the product. The primary factor deciding the source for the consumers is the price, be it the domestic source or imports from subject countries. The exporters from the subject countries and petitioners have sold the same product in the same periods to same category of customers. The sales channels are comparable for the various Foreign Producers and domestic industry. Volume of imports from each of the subject countries is significant.
- (viii) Imports from subject countries have increased in absolute terms. Imports have increased in relation to production of the product in India. Imports have increased in relation to consumption of the product in India.
- (ix) Imports are significantly undercutting the prices of the domestic industry in the market. As a result of significant difference in the price of the domestic industry and imports, the volume of imports have increased more than three times, whereas the domestic industry sales have increased by just 31%, which is also due to entrance of new producer M/s. Shirdi Industries Limited.
- (x) As a result of significant price undercutting, the domestic industry has been prevented from increasing its prices necessitated by increase in the cost of production. Resultantly, profitability of the domestic industry deteriorated further in the proposed investigation period.
- (xi) Capacity utilization declined continuously, which is directly linked to imports from subject countries. The domestic industry has been prevented from increasing its capacity utilization in a situation where demand has increased by more than 67%. In fact, it can be said that the entire increased demand has been taken away by dumped imports.
- (xii) The Indian producers have significant unutilized capacity. There are three producers in India and two are petitioners in the present petition. Other producer has capacity of 30000 MT per annum. There is significant increase

in demand in India, which has been captured by the imports from subject countries. As a result, capacity utilization of domestic industry declined significantly in spite of increase in demand in India.

- (xiii) Sales volumes of the domestic industry increased in proposed POI as a result of commencement of production and sales by new producer M/s. Shirdi Industries Limited, However, the same could not increase in proportion to the increase in demand.
- (xiv) Cost of production of the domestic industry increased by 38% as a result of increase in raw material and utility cost. Selling price also increased by 36%. However, in absolute terms, whereas cost of production increased by Rs. 4415/- CBM over base year, selling price increased by Rs. 4109/- CBM over base year. As a result, contribution declined and consequently, profitability suffered.
- (xv) The Domestic industry improved its performance and made cash profit in 2005-06. However, the same deteriorated in proposed investigation period again.
- (xvi) Inventories with the domestic industry increased. Increase in inventory is in spite of increase in sales
- (xvii) Productivity of the domestic industry shows same trend as of production, i.e., productivity remained more or less constant over the injury period, except period of investigation, in which production; productivity has increased due to commencement of production by one of the producer.
- (xviii) Growth of the domestic industry in terms of a number of volume parameters is due to commencement of production by one of the Indian producers. Growth in various injury price parameters remained negative.
- (xix) The domestic industry is suffering from dumping for a fairly long period. Dumping adversely affected the performance of the domestic industry throughout the injury period.
- (xx) Even when the demand for the product is growing significantly, the domestic industry is prevented from utilizing its existing capacities. Persistent dumping has therefore adversely affected utilization of capacities in the Country. Resultantly, production has suffered.
- (xxi) Significant price difference between imported and domestic product is preventing the domestic industry from increasing its sales volumes. Practically entire increase in demand is being met by dumped imports. Persistent dumping is therefore adversely affecting sales volumes of the domestic industry.
- (xxii) Imports are significantly undercutting the prices of the domestic industry. Consequently, dumping is preventing price increases that would have otherwise occurred as a result of increase in the cost of production.

- (xxiii) Persistent dumping has adversely affected profitability of the domestic industry. The domestic industry suffered financial losses throughout the injury period. Further, profitability and consequently profits position deteriorated further. This directly impacted return on capital employed and cash profits.
- (xxiv) Dumping is adversely affecting the growth of the domestic industry.
- (xxv) Dumping margins are significant. Further, the product was being exported at dumped prices throughout the injury period.

G.2 Views of the Exporters, importers and other interested parties.

58. Other interested parties have made following submissions with regard to injury to the domestic industry and causal link thereof:-

- (i) There is no injury to the domestic industry. Injury to the domestic industry is due to other factors than dumping; therefore, there is no causal link between dumping and injury to the domestic industry.
- (ii) Analysis of major factors as given in Annexure II as per domestic industry the data reveals that they have failed to make out a case of injury let alone material injury.
- (iii) Market share of domestic industry need to be examined in context of entrance of new producer, who has taken away significant market share. Further, same is also required to be examined with reference to non participating producer i.e. M/s. Mangalam Timber Products, whose performance has improved.
- (iv) No analysis has been done with the products, which are directly substitute for subject goods like Ply Board, Particle boards, other boards etc. Without taking into account effects from such substitutes, proper and complete injury analysis and non attribution analysis can not be done. Without this, selling price and market share analysis is flawed.
- (v) The Production and capacity of the domestic industry has increased, therefore, any injury can not be claimed on these accounts. Drop in capacity utilization is just 1.7% in spite of addition of capacity and certainly, this can not be a factor of injury.
- (vi) M/s. Nuchem Ltd. has given much higher installed capacity in petition whereas their licensed capacity is much lower.
- (vii) Admittedly, sales has increased by 31%, therefore, this cannot be a factor of injury.
- (viii) Increase in imports is due to unprecedented increase in demand in India. Domestic industry is not in a position to meet the demand; therefore,

demand is being met through imports. The Domestic industry did not make efforts to increase their capacity in terms of volume, size, and product range. Products of the domestic industry are not comparable to the imported product.

- (ix) Financial performance of the domestic industry is de-linked with the imports. Admittedly, domestic industry has incurred losses in 2005-06, though, claimed that dumping has been there in that period also. The Authority may ask the domestic industry to provide detailed information over the injury period.
- (x) The domestic industry is clearly trying to take shelter of Anti Dumping Duty in a situation, which is plagued due to other factors unrelated to imports. Interestingly, data is indexed, and therefore, they are not able to comment.
- (xi) No confidentiality can be claimed on inventories and methodology thereof. The Authority may compare inventory in terms of number of days, sales and production in view of the fact that new capacity has been added in Period of Investigation. It is also likely that newcomer M/s. Shirdi Industries Ltd. may have faced some difficulties in production and stabilization of their products due to start up operations. A thorough analysis of each of the constituents of domestic industry needs to be carried out by the Authority before reaching to any conclusion. Admittedly, employment, wages and productivity do not show any injury.
- (xii) Selling price has gone up by 35% in Period of Investigation. Domestic industry has been able to increase their prices in spite of their claim that there has been significant price undercutting throughout the injury period.
- (xiii) The claim of the domestic industry that dumping has been taking place throughout the injury period is self-serving as one of the petitioners M/s. Shirdi Industries Limited has been one of the leading importers of MDF in India prior to set up of their plant. Published financial statements of M/s. Nuchem Ltd. clearly shows that their performance has improved.
- (xiv) M/s. Nuchem Ltd. has been performing poor since long, due to production and financial problems, which shows that there was no nexus between imports and their performance.
- (xv) Admittedly, M/s. Shirdi Industries Ltd. does not have any experience in handling labour intensive operations and manufacturing activities, which is affecting their profitability and performance. Therefore, domestic industry can not allege injury if any to the alleged dumped imports.
- (xvi) Performance of M/s. Mangalam Timber Products Ltd. has improved in spite of alleged dumped imports with almost 100% Capacity Utilization. Increase in performance of M/s. Mangalam Timber Products Ltd. shows that imports have no effect on performance of the domestic industry and performance of domestic producers is poor due to historical reasons and unviable capacities.

- (xvii) Size of plant of the domestic industry can not provide economy of scale. Capacity of M/s. Nuchem Ltd. is 45000 MT and M/s. Shirdi Industries Ltd. is 30000 MT. Against this, typical plant size in subject countries is 100000 MT, while some bigger plants have capacity of 300000 MT. Small Indian plants cannot be viable in the era of globalization and reduced tariff barriers.
- (xviii) M/s. Shirdi Industries Ltd. enjoys several tax benefits including Excise Duty, Sales Tax and Income Tax and able to sell product at lower prices in the market, which competes with M/s. Nuchem Ltd. in the domestic market.
- (xix) The importers in India incurred substantial amount to build their brand name for promotional activities. The price at which imported material is being sold is higher than the price of the domestic industry. The Authority should consider these facts while examining price effects.
- (xx) Cash profits of domestic industry improved substantially in spite of alleged dumping
- (xxi) M/s. Shirdi Industries Ltd. has huge interest cost, with lot of pressure on the company. Depreciation cost is also on higher side being new capacities. Trend analysis ought to have factored with this.
- (xxii) US \$ Exchange rate dropped from Rs. 47 to Rs. 37 in Period of Investigation, no effect is considered in the petition in this regard.
- (xxiii) There are a number of reasons/factors other than dumping, which have caused injury to the domestic industry.

G.3 Examination by the Authority

59. The Authority has noted the views expressed by the interested parties in respect of the injury claims of the domestic industry and examined the mandatory factors for injury determination and causal link.

G.4 Cumulative assessment of injury

60. As per annexure-II (iii) of the Rules, in case, imports of a product from more than one country are being simultaneously subjected to Anti-Dumping investigations, the Authority is required to cumulatively assess effect of such imports, only when it determines that:-

- (i) The margin of dumping established in relation to imports from each country is more than 2% expressed as percentage of export price and the volume of the imports from each country is 3% of the imports of like article, and,
- (ii) Cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic article.

61. In the instant case, product is being dumped from more than one country. The Authority, therefore, examined whether the injury to the domestic industry must be determined cumulatively from these sources. The Authority has noted that the margin of dumping in respect of each of the subject country is more than 2% and the volume of imports from each country is also more than 3%. Cumulative assessment of injury is appropriate in respect of these countries in view of the followings-

- (i) The subject goods have been imported from the subject countries under the same tariff classification;
- (ii) The Authority has found that the imported subject goods are commercial substitutes of the domestically produced product.
- (iii) The information furnished to the Authority gives a reasonable indication that the exports made from the subject countries compete in the same market, as these are like products.
- (iv) Consumers are using domestic material as also imported material. Same category of customers who are buying the product from the domestic industry, who are importing product from subject countries.

62. The Authority notes that it is appropriate to cumulatively assess the effect of dumped imports on the domestically produced like article.

G.5 Volume Effect of dumped imports and Impact on domestic industry

63. Transaction-wise information of imports was called for from DGCI&S for the imports of product concern in India. The information furnished by the DGCI&S has been analyzed by the Authority and the imports of the subject goods from 6 MM thickness and above are as under:

G.6 Import Volumes and share of subject countries

64. The imports volume of the subject goods have been as under:-

	Units	2004-05	2005-06	2006-07	POI
Imports from					
China PR	CBM	436	1,251	7,904	16,642
Malaysia	CBM	6,539	16,010	14,183	22,576
Thailand	CBM	740	3,049	2,176	13,169
Sri Lanka	CBM	23,365	36,009	30,869	35,902
Subject countries	CBM	31,080	56,318	55,132	88,288
Trend	Indexed	100	181	177	284
Others	CBM	6,727	16,807	10,502	10,314
Total	CBM	37,806	73,125	65,634	98,602
Trend	Indexed	100	193	174	261
Market Share in Imports					

China PR	%	1.15	1.71	12.04	16.88
Malaysia	%	17.29	21.89	21.61	22.90
Thailand	%	1.96	4.17	3.32	13.36
Sri Lanka	%	61.80	49.24	47.03	36.41
Subject Countries	%	82.21	77.02	84.00	89.54
Others	%	17.79	22.98	16.00	10.46
Total	%	100	100	100	100

65. The above data indicates that total imports and dumped imports of the subject goods from the subject countries have increased substantially during the injury examination period to the extent of 161% and 184% respectively. The share of dumped imports from the subject countries has increased from 82.21% in 2004-05 to 89.54% during the Period of Investigation.

G.7 Demand and Market shares

66. Demand of subject goods has been determined by adding domestic sales of domestic industry, domestic sales of other Indian producers and imports from all countries which are as under:

	Unit	2004-05	2005-06	2006-07	POI
Demand					
Sales of Domestic Industry	CBM	46,301	46,130	42,218	60,484
Sales of Other Indian Producer	CBM	35,237	27,399	40,302	33,890
Imports in India	CBM	37,806	73,125	65,634	98,602
Demand in India	CBM	119,344	146,655	148,154	192,976
Trend	Indexed	100	123	124	162
Market Share in Demand					
China PR	%	0.37	0.85	5.34	8.62
Malaysia	%	5.48	10.92	9.57	11.70
Thailand	%	0.62	2.08	1.47	6.82
Sri Lanka	%	19.58	24.55	20.84	18.60
Subject Countries	%	26.04	38.40	37.21	45.75
Others	%	5.64	11.46	7.09	5.34
Domestic industry	%	38.80	31.45	28.50	31.34
Other Indian Producers	%	29.53	18.68	27.20	17.56
Total Imports	%	31.68	49.86	44.30	51.10

67. From the above Table, the Authority notes the market share of the domestic industry declined from 38.80% in the base year to 31.34% during POI. At the same time, the market share of the other Indian producer also declined from 29.53% in the base year to 17.56% during POI. In the scenario of persistent growth in demand, while the share of domestic industry as well as Indian producers have declined significantly, the market share of imports from subject countries have registered a significant rise and the market share of the subject countries which was only 26.04% in the base year have increased to 45.75% during the period of investigation. The demand for the subject goods has increased by 62% from base year to the Period of

Investigation and demand during the Period of Investigation over immediate preceding year have increased substantially.

G.8 Capacity, production and capacity utilization of the Domestic Industry:

	Unit	2004-05	2005-06	2006-07	POI
Capacity	CBM	59,850	59,850	59,850	100350
Production	CBM	46,120	45,873	42,000	65,163
Capacity Utilization	CBM	77.06	76.65	70.18	64.94
Sales	CBM	46,301	46,130	42,218	60,484

68. The Authority notes that capacity, production and sales of the domestic industry has increased during the Period of Investigation as M/s. Shirdi Industries Limited one of the constituents of the domestic industry commenced production and sales in that period only and due to entrance of a new producer in the market, the absolute indices like capacity, production, and sales are bound to increase. However, the capacity utilization of the domestic industry has declined to 64.86% during Period of Investigation as compared to 77.06% in the base year. During 2004-05 to 2006-07 when M/s. Nuchem Ltd. was only in operation, the production and sales and capacity utilization has continuity declined as capacity utilization of M/s Nuchem Ltd. decreased to 70.18% during 2006-07 as compared to 77.06% in base year.

G.9 Dumped Imports in relation to Indian Production

69. Dumped imports in relation of the domestic industry's production has been as under:

Particulars	Unit	2004-05	2005-06	2006-07	POI
Production of DI	CBM	46,120	45,873	42,000	65,163
Imports					
China PR	CBM	436	1,251	7,904	16,642
Malaysia	CBM	6,539	16,010	14,183	22,576
Thailand	CBM	740	3,049	2,176	13,169
Sri Lanka	CBM	23,365	36,009	30,869	35,902
Subject countries	CBM	31,080	56,318	55,132	88,288
China PR	%	0.95	2.73	18.82	25.54
Malaysia	%	14.18	34.90	33.77	34.64
Thailand	%	1.60	6.65	5.18	20.21
Sri Lanka	%	50.66	78.50	73.50	55.09
Subject countries	%	67.39	122.77	131.27	135.49

70. It is evident that imports from subject countries in relation to domestic industry's production have continually increased throughout the injury period. The dumped imports of the subject goods from the subject countries were 67.69% during 2004-05 which increased to 135.49% during Period of Investigation in relation to the production of domestic industry and there has been an absolute increase in imports throughout the injury period and particularly during Period of Investigation relating to

production of the domestic industry as well as consumption of the subject goods in India.

H. Price Effect of the Dumped imports on the Domestic Industry & factors affecting prices

H.1. Price undercutting and underselling effects

71. As per Rule 11 of Anti Dumping Rules read with Annexure II, the impact of dumped imports from the subject countries on the prices of the domestic industry have been examined with reference to the price undercutting, price underselling, price suppression and price depression. For the purpose of this analysis the weighted average cost of production, weighted average Net Sales Realization (NSR) and the Non-injurious Price (NIP) of the Domestic industry have been compared with the landed cost of imports from the subject countries and price under-cutting as well as price under selling have been as under:

	Unit	2004-05	2005-06	2006-07	POI
Net Sales Realization	Rs/CBM	***	***	***	***
Landed Price					
China PR	Rs/CBM	9609	10774	9996	10118
Malaysia	Rs/CBM	10609	9024	10994	12004
Thailand	Rs/CBM	13353	11488	10821	12899
Sri Lanka	Rs/CBM	10490	11036	11753	12023
Subject Countries	Rs/CBM	10571	10483	11269	11790
Price undercutting					
China PR	Rs/CBM	***	***	***	***
Malaysia	Rs/CBM	***	***	***	***
Thailand	Rs/CBM	***	***	***	***
Sri Lanka	Rs/CBM	***	***	***	***
Subject Countries	Rs/CBM	***	***	***	***
Price undercutting (%)					
China PR	%	10-20	8-15	20-30	30-40
Malaysia	%	1-10	20-30	15-25	18-28
Thailand	%	Negative	1-10	10-20	10-20
Sri Lanka	%	5-15	5-15	10-20	20-30
Subject Countries	%	1-10	10-20	10-20	20-30
Non Injurious Price	Rs./CBM	***			
Price Underselling					
China PR	Rs./CBM	***			
Malaysia	Rs./CBM	***			
Thailand	Rs./CBM	***			
Sri Lanka	Rs./CBM	***			
Subject Country	Rs./CBM				
Price Underselling	%				

(%)		
China PR	%	60-70
Malaysia	%	30-40
Thailand	%	20-30
Sri Lanka	%	30-40
Subject Countries	%	35-45

From the above table it is evident that the landed prices of the subject goods from the subject countries have been significantly lower than the selling price of domestic industry, causing significant price undercutting as well as price underselling.

H.2 Price suppression and depression effects of the dumped imports:

72. The price suppression and price depression effects of the dump imports are as under:

	Unit	2004-05	2005-06	2006-07	POI
Cost of Sales	Rs/CBM	***	***	***	***
Trend	Indexed	100.00	98.81	118.43	134.04
Selling price	Rs/CBM	***	***	***	***
Trend	Indexed	100.00	106.90	117.00	133.11

73. The trend in the moment of selling price during injury period shows that selling price of domestic industry have shown rising trend and therefore, price depression effect has not been found to exist. Further the domestic industry has been able to increase the selling price almost commensurate the increase in cost therefore, price suppression effect is absent.

H.3 Examination of other Injury Parameters

74. The other injury parameters are observed as under:

H.4. Profits, return on investments and cash flow:

75. The profits, return on investments and cash flow details have been as under:-

	Unit	2004-05	2005-06	2006-07	POI
Profit & Loss	Rs/CBM	(***)	(***)	(***)	(***)
Trend	Indexed	(100.00)	(2.66)	(135.46)	(145.06)
Total profit & loss (PBT)	Rs/Lacs	(***)	(***)	(***)	(***)
Trend	Indexed	(100.00)	(2.65)	(123.52)	(189.50)
PBIT	Rs/Lacs	***	***	***	***
Trend	Indexed	100	260.36	68.70	96.19
Return on capital employed	%	***	***	***	***

Trend	Indexed	100.00	257.09	74.78	35.47
Cash profit	Indexed	(100.00)	219.16	(136.03)	(159.08)

76. It is evident that the domestic industry continuously have suffered financial losses during the injury period. The ROI also declined throughout the injury period. There has been a cash loss both in POI as well as immediate preceding period 2006-07.

H.5 Return on Investment and ability to raise capital:

77. Upto 2006-07 M/s Nuchem Industries Ltd. was only domestic industry and did not enhance its capacity and accordingly the ability to raise capital particularly when the return on investments has declined could not be assessed.

H.6 Productivity:

	Unit	2004-05	2005-06	2006-07	POI
Productivity per employee	Indexed	100	108	107	145
Productivity per day	Indexed	100	99	91	141

78. The data on production per employee shows that the productivity of the domestic industry increased due to commencement of new capacity.

H.7 Employment and wages

	Unit	2004-05	2005-06	2006-07	POI
Employment	Indexed	100	92	85	97
Wages	Indexed	100	95	98	135
Wages per employee	Indexed	100	104	115	139

79. It is evident that the employment continually decreased from base year upto 2006-07 and after that increased during POI due to commencement of M/s Shirdi Industries ltd. The wages per employee have continually increased during the injury period.

H.8 Inventories

	Unit	2004-05	2005-06	2006-07	POI
Opening Inventories	CBM	***	***	***	***
Closing Inventories	CBM	***	***	***	***
Average Inventories	CBM	***	***	***	***
Trend	Indexed	100	71	33	139

80. It is evident that the average inventory continually declined till 2006-07 and substantially increased during Period of Investigation. The closing inventory as on 31 December, 2007 was 774 CBM as against 73 CBM in January, 2007.

H.9 Growth

81. Overall growth of the domestic industry remained negative in terms of value parameters. In volume parameters, growth became positive in absolute terms during Period of Investigation due to entrance of a new producer. However, when the same is compared in relation to demand and market share, growth in volume terms also remain negative only. In price parameters performance of domestic industry deteriorated significantly with reduced ROI and cash losses.

H.10. Investment

82. The domestic industry has made new investment due to entrance of M/s Shirdi industries Limited, who started production during Period of Investigation. The Authority also notes that some other producers are also investing in MDF production because of significant increase in demand in the country and with the expectation of better margins.

H.11 Magnitude of Dumping

83. Dumping margin from each of the subject country is significant as has been analyzed and determined in dumping section.

H.12 Factor effecting prices:

84. Final examination of trend in the volume of dumped imports and prices of the subject countries and the domestic prices indicate that the dumped imports have affected the prices of the domestic industry.

H.13 Facts on injury parameters:

85. It is evident that in spite of absolute increase in production, sales and capacity, the domestic industry has suffered injury on account of decline in market share, decline in profitability and cash losses. The volume of dumped imports from subject countries have increased substantially. The landed price of imports from subject countries have undercut the prices of domestic industry throughout the injury period and its intensity peaked during Period of Investigation. In a scenario of substantial increase in demand for the product under consideration the domestic industry has been left with idle capacity and the injury suffered by the domestic industry is material and significant.

H. Causal Link and other factors

86. Having examined the existence of material injury and volume and price effect on dumped imports on the price of domestic industry in terms of price undercutting, price underselling etc. other indicative parameters listed under the Rules and Agreement on Anti-Dumping have been examined to see whether any other factors, other than dumped imports have contributed to injury to the domestic industry. Accordingly, the following parameters have been examined.

I.1 Volume and prices of imports from other sources:

87. The Authority notes that volume of imports from other than subject countries have been 10.46% and therefore not appears to be a cause of any injury to the domestic industry.

I.2 Contraction in demand and /or change in pattern of consumption:

88. There is no contraction in demand and same is not a cause of any injury to the domestic industry.

I.3 Trade restrictive practices of and competition between the foreign and domestic producers:

89. The subject goods have been freely importable and there have been no trade restrictive practices in the domestic market, therefore this factor could not be a reason for affecting performance of the domestic industry.

I.4 Development of technology:

90. The technology as also production process for producing subject goods is fairly stabilized with little technical or technological developments. There is hardly any technological advancement which can be attributed to be a cause to the injury to the domestic industry.

I.5 Export performance:

91. None of the producers are exporting product concern and hence export cannot be a cause of injury to the domestic industry.

J. Factors establishing causal link

92. Analysis of the performance of the domestic industry over the injury period shows that the performance has materially deteriorated due to dumped imports from the subject countries. The volume of dumped imports from the subject countries has sharply increased and landed prices were undercutting the prices of domestic industry which was maximum during the period of investigation. The domestic industry failed to recover its actual cost of production and earn reasonable profits and were compelled to under sell the product. Increase in volume of dumped imports and reduction in market share of domestic industry coupled with idle capacity has adversely affected profit, return on investment. The authority proposes to hold that domestic industry suffers material injury and the injury has been caused by the volume and price effect of dumped imports from the subject countries.

J.1 Magnitude of Injury and Injury Margin

93. The Authority has compared the non-injurious price as worked out with the average landed value determined based upon the data available from the DGCI&S source in respect of subject countries and Injury margins have been arrived at as under:

US \$ per CBM

	Country	NIP	Landed Price	Injury Margin	Injury Margin %
Siam Fibre Board Co.	Thailand	***	***	***	20-30
Vanachai Panel	Thailand	***	***	***	15-25
Vanachai Group	Thailand	***	***	***	15-25
Others	Thailand	***	***	***	15-25
Merbok	Sri Lanka	***	***	***	25-35
Others	Sri Lanka	***	***	***	25-35
Evergreen Fibre Board	Malaysia	***	***	***	20-30
Dongwha MDF	Malaysia	***	***	***	30-40
Robin Resources	Malaysia	***	***	***	20-30
Others	Malaysia	***	***	***	20-30
China PR	China PR	***	***	***	30-40

L. Comments on Disclosure Statement:

L.1 Submissions by the Domestic Industry:

94. On the Disclosure Statement, the domestic industry has made the following submissions:

- (i) product under consideration has been exported to India at dumping prices from subject countries, resulting in dumping of the product;
- (ii) domestic industry has suffered material injury;
- (iii) anti dumping duties are required to be imposed;
- (iv) duties may please be expressed in terms of US\$.

L.2 Submissions by interested Parties:

95. M/s. APJ SLG Law Offices, New Delhi have made various submissions on Disclosure Statement on behalf of M/s. Siam Fibre Board Company Limited, Thailand, M/s. Robin Resources Sdn. Bhd., Malaysia and M/s Evergreen Fibre Board Bhd. Malaysia and have made following specific submissions:

- (i) That the individual Normal Value for each of the cooperating exporters has not been considered for the purpose of Dumping Margin as the Parliament has passed the amendments in Section 9(A) and the Finance Bill will get the assent of the Hon'ble President of India within a day or two;

- (ii) That the domestic industry does not have the capacity to manufacture the board sizes exceeding 1220 MM width;

96. Mr. M.N. Jha, Advocate, Supreme Court of India, New Delhi on behalf of M/s. Merbok MDF Lanka (Pvt.) Ltd., Sri Lanka has submitted price undertaking duly signed by his client.

97. Ministry of Export Development and International Trade, Department of Commerce, Colombo, Sri Lanka has stated that M/s. Merbok is prepared to enter into a Price Undertaking and periodical review of the undertaking in the future on account of changes in costs greater than 5% and subject to reference price based AD Duty levied on other exporters from the subject countries.

98. Mr. M.N. Jha, Supreme Court of India, New Delhi on behalf of M/s. Vanachai Panel Industries Co. Ltd. (VPI) and M/s. Vanachai Group PLC (VNG) has stated that domestic sales to related companies were not significant and the value of difference between related and non-related customers for both the clients were 4.5% only and that difference do not necessarily point out to the non arm's length relationship as the price difference between sales made to related and unrelated customers are rather insignificant, commercially speaking and transactions between the companies and their related customers be considered to have been made on an arm's length basis. It has been further stated that since all sales and adjustments to export sales were recorded in accounting system in Thai Baht according to the regulations of Thai Revenue Department, dumping margin may be calculated based on normal value and export price in Thai Baht.

99. Mr. M.N. Jha, Supreme Court of India, New Delhi on behalf of M/s. Dongwa Fibre Board Sdn. Bhd. (DFB) and related company Dongwa MDF (M) Sdn.Bhd. (together Dongwa) Malaysia has stated that they are disappointed that the Authority did not accept the revise Appendix 7 & 8 for Merbok and Nillai factory and they explained the errors happened during the verification.

100. M/s. Lakshmi Kumaran and Sridharan, Attorneys, New Delhi on behalf of M/s. Spacewood, Nagpur have made various submissions on Product Under Consideration, large size panels and have stated that they did not receive copy of the Disclosure Statement. They have also requested that if at all any protective measure is to be imposed, a fixed rate of anti dumping duty rather than a reference price based duty be recommended.

101. M/s. Pahargang Plywood & Timber Dealer's Association (Regd.), New Delhi has made their submissions vide letter dated 22nd August, 2009 stating that there is no merit whatsoever in imported MDF treated as Indian MDF.

102. M/s. Thamarappally Brothers, Ernakulam vide their letter dated 21.9.2009 has stated that no manufacturer in India produces MDF on Tropical Hardwood as the latter is not available for free felling in India. They stated that M/s. Shirdi Industries have reduced their selling price showing that the local manufacturers can make good profit even if they reduced their prices. They have further stated that M/s. Shirdi Industries made imports during the POI and they strongly believe that M/s. Shirdi

should definitely be disqualified from participating the investigation. They have also stated that their name needs to be reviewed for inclusion in the list of importers.

103. Ministry of International Trade and Industry, Malaysia have stated that the comparison made between the country specific normal value and individual company's export prices (company specific) in order to arrive at the dumping margins are unfair and inconsistent of 2.4 Article of the WTO ADA. They have stated that the Authority should established the existence of dumping margin on a fair comparison of each cooperating exporters' normal value and export price and Disclosure Statement did not state recommendation on AD Duties for all alleged companies. They have stated that their argument on imposition of provisional duties higher than the margin of dumping need serious consideration in arriving at the Final Findings.

104. M/s. Spacewood Furnishers Pvt. Ltd., Nagpur vide their fax letter dated 21.8.2009 has stated that it is patently incorrect that DI can produce maximum 16' length and 4' wide. The presses of DI are not expandable and there is no technology in the world to expand the press size except that it can only be replaced. They have also stated that they require minimum 6' wide panels which are not produced by the Domestic Industry. They have further stated that their furniture and LPM industry is under obligation to meet the standards of BIFMA and other standards of their buyers.

M. Examination by the Authority:

105. The Authority has noted all the submissions on the Disclosure Statement made by the domestic industry and other interested parties. The Authority has dealt in detail on the various submissions made by the interested parties at the appropriate places and has noted that there are no evidence in support of arguments made by the interested parties. The request made by M/s. Vanachai Panel Industries Co. Ltd (VPI) and M/s. Group PLC (VNG) to calculate dumping margin based on normal and export price in Thai Baht has not been found maintainable. The Domestic Industry has informed that they do not have any objection to Price Undertaking of M/s. Merbok MDF Lanka (Pvt.) Ltd., Sri Lanka so long as the same meets all legal requirements and well implemented and the Authority has noted the same. The Authority has noted that the share of the subject countries in the domestic demand has increased from 82.21% in 2004-05 to 89.54% during POI registering an increase of 7.33% while the share of the domestic industry has reduced from 38.80% to 31.34% during the same period registering a decline of 7.46%.

N. Final Findings:

106. On the basis of the above analysis and taking into account the contentions raised, information provided and submissions made by the interested parties and the facts available on record, the Authority concludes that:

- (a) The subject goods have been exported to India from the subject countries at dumped prices and dumping margins have been substantial and above de minimis level.

- (b) The domestic industry has suffered material injury.
- (c) The injury has been caused by the dumped imports from the subject countries.

O. PRICE UNDERTAKING

107 Rule 15 relating to Suspension or termination of investigation on price undertaking provides that the Authority may suspend or terminate an investigation if the exporter of the article in question furnishes an undertaking in writing to the designated authority to revise the prices so that no exports of the said article are made to India at dumped prices, or in the case of imports from specified countries undertake to revise the prices so that injurious effect of dumping is eliminated and the Authority is satisfied that the injurious effect of the dumping is eliminated.

108 One of the exporters, M/s Merbok MDF Lanka (Pvt.) Ltd. Horana, Sri Lanka had extended its willingness to offer price undertaking. The offer was examined in detail and the Authority found that the undertaking offered by the exporter can be accepted since it eliminates the injurious effect of dumping. The exporter has agreed to provide all reasonable information, which the Authority considers relevant and necessary. The Authority has accepted Price Undertaking from the exporter and accordingly no duties would apply in the case of exports of Plain Medium Density Fibre Board of 6MM thickness and above, from this company. However, in the case of any violation in the execution of this undertaking by the exporter, the duties would apply on the recommendations given by the Authority in this regard. It is also clarified that this undertaking would apply only in case of exports made by this company directly to India. In case the goods are exported by some other company/trader, the residual duty, as mentioned below, would apply, even if the same is the produce of this company.

109 The company has extended price undertaking for Plain Medium Density Fibre Board exported by them. The undertaking amount is at landed value US\$ 290.73 per CBM. The undertaking price is the minimum landed value of imports.

O. INDIAN INDUSTRY'S INTEREST & OTHER ISSUES

110. The Authority notes that the purpose of anti-dumping duties, 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 measures would not restrict imports from the subject countries in any way and therefore would not affect the availability of the products to the consumers.

111. The Authority notes that the imposition of anti-dumping duties might affect the price levels of the product manufactured/subject goods and consequently might have some influence on relative competitiveness of these products. However, fair competition in the Indian market will not be reduced by the antidumping measures, particularly if the levy of the anti- dumping duty is restricted to an amount necessary to redress the injury to the domestic industry. On the contrary, imposition of anti-dumping measures would remove the unfair advantages gained by dumping

practices, would prevent the decline of the domestic industry and help to maintain availability of wider choice to the consumers of the subject goods. Imposition of anti-dumping measures would not restrict imports from the subject countries in any way and therefore would not affect the availability of the product to the consumers.

M. Recommendations

112. The Authority has noted that the investigation has been initiated and notified to all interested parties and adequate opportunity has been given to the exporters, importers and other interested parties to provide positive information on the aspect of dumping, injury and causal links. On preliminary investigations, the Authority recommended imposition of provisional duty to offset dumping and injury pending completion of the investigation vide Preliminary Findings of even number dated 2nd February, 2009. The Authority on completion of investigations considers it necessary and recommends imposition of anti-dumping duty on imports of subject goods from the subject countries in the form and manner described hereunder.

113. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of definitive anti-dumping duty equal to the lesser of margin of dumping and margin of injury, so as to remove the injury to the domestic industry. Accordingly, definitive Anti Dumping Duty equal to the difference between the amount indicated in Col 9 of the table below and landed value of imports is recommended to be imposed from the date of imposition of the provisional duty notified by the Central Government on all imports of subject goods originating in or exported from the subject countries.

Duty Table

Sl. No.	Heading/ Sub-heading/Tariff item	Description	Country of origin	Country of export	Producer	Exporter	Unit	Amount	Currency
-1	-2	-3	-4	-5	-6	-7	-8	-9	-10
1	44.11	Plain Medium Density Fibre Board from 6MM and above	Thailand	Thailand	Siam Fibreboard Company Limited	Siam Fibreboard Company Limited	Per Cubic Meter	308.72	USD
2	As above	As above	Thailand	Thailand	Vanachai Panel Industries Co.,Ltd	Vanachai Panel Industries Co.,Ltd	Per Cubic Meter	340.33	USD
3	As above	As above	Thailand	Thailand	Vanachai Group Public Company Limited	Vanachai Group Public Company Limited	Per Cubic Meter	355.90	USD
4	As above	As above	Thailand	Thailand	Any other combination other than SN 1 to 3		Per Cubic Meter	391.79	395.52
5	As above	As above	Thailand	Any Country other than Thailand	Any	Any	Per Cubic Meter	391.79	USD
6	As above	As above	Any Country other than Subject Country	Thailand	Any	Any	Per Cubic Meter	391.79	USD
7	As above	As above	Sri Lanka	Sri Lanka	Merbok MDF Lanka (Pvt) Ltd	Merbok MDF Lanka (Pvt) Ltd	Per Cubic Meter	Nil Note below	USD
8	As above	As above	Sri Lanka	Sri Lanka	Any other combination other than SN 7		Per Cubic Meter	352.23	
9	As above	As above	Sri Lanka	Any Country other than Sri Lanka	Any	Any	Per Cubic Meter	352.23	USD
10	As above	As above	Any Country other than Subject Country	Sri Lanka	Any	Any	Per Cubic Meter	352.23	USD
11	As above	As above	Malaysia	Malaysia	Dongwha MDF	Dongwha MDF	Per Cubic Meter	328.51	USD
12	As above	As above	Malaysia	Malaysia	Robin Resources (Malaysia) Sdn Bhd	Robin Resources (Malaysia) Sdn Bhd	Per Cubic Meter	No Reference Price prescribed	USD
13	As above	As above	Malaysia	Malaysia	Evergreen Fibre Berhad (EFB)	Evergreen Fibre Berhad (EFB)	Per Cubic Meter	334.42	USD
14	As above	As above	Malaysia	Malaysia	Any other combination other than SN 11 to 13	Per Cubic Meter	Per Cubic Meter	347.99	USD
15	As above	As above	Malaysia	Any Country other than Malaysia	Any	Any	Per Cubic Meter	347.99	USD
16	As above	As above	Any Country other than Subject Country	Malaysia	Any	Any	Per Cubic Meter	347.99	USD
17	As above	As above	China	China	Any	Any	Per Cubic Meter	395.52	USD
18	As above	As above	China	Any Country other than China	Any	Any	Per Cubic Meter	395.52	USD
19	As above	As above	Any Country other than Subject Country	China	Any	Any	Per Cubic Meter	395.52	USD

Note: Subject to Price Undertaking amount of US\$ 290.73 per CBM as minimum Landed Value of imports (Against Sl.No.7 of the Duty Table).

114. An appeal against this order, after its acceptance by the Central Government, shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the relevant provisions of the Act,

(R. Gopalan)
The Designated Authority

