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**F. No. 6/17/2019-DGTR
Government of India
Department of Commerce
Ministry of Commerce & Industry
Directorate General of Trade Remedies
4th Floor, Jeevan Tara Building, 5, Parliament Street, New Delhi – 110001**

Dated: 3rd May, 2021

**NOTIFICATION
FINAL FINDINGS
(CASE No. CVD 06/2019)**

Subject: Anti-subsidy investigation concerning imports of “Fiberboards” originating in or exported from Indonesia, Malaysia, Thailand, Vietnam and Sri Lanka.

A. BACKGROUND

F. No. 6/17/2019-DGTR: Having regard to the Customs Tariff Act, 1975, as amended from time to time and the Customs Tariff (Identification, Assessment and Collection of Countervailing Duty on Subsidized Articles and for Determination of Injury) Rules, 1995, as amended from time to time thereof:

1. Whereas, Greenply Industries Limited/ Greenpanel Industries Limited, Century Plyboards (India) Ltd. and Rushil Decor Limited (collectively referred as “Applicants”); have filed an application on behalf of Domestic Industry before the Designated Authority (hereinafter also referred to as the “Authority”), in accordance with the Customs Tariff Act, 1975 as amended from time to time (hereinafter also referred to as the “Act”) and the Customs Tariff (Identification, Assessment and Collection of Countervailing Duty on Subsidized Articles and for Determination of Injury) Rules, 1995 as amended from time to time (hereinafter also referred to as the “Rules”) for imposition of Countervailing Duty on imports of “Fiberboards (hereinafter referred to as subject goods) from Indonesia, Malaysia, Sri Lanka, Thailand and Vietnam (hereinafter referred to as subject countries).
2. And, whereas, the Authority, on the basis of sufficient evidence submitted by the Applicants, issued a public notice vide Notification No. 6/17/2019 - DGAD dated 05th November 2019, published in the Gazette of India, initiating the subject investigation in accordance with Rule 6 to determine existence, degree and effect of the alleged subsidy and to recommend the amount of anti-subsidy/countervailing duty, which if levied, would be adequate to remove the alleged injury to the domestic industry.

B. PROCEDURE

3. The procedure described herein below has been followed by the Authority with regard to the subject investigation:

- a) The Authority, under the above Rules, received a written application from the Applicants on behalf of the Domestic Industry, alleging subsidy of 'Fiberboards' from Indonesia, Malaysia, Sri Lanka, Thailand and Vietnam.
- b) The Authority notified the Embassies of subject countries in India about the receipt of the anti-subsidy application before proceeding to initiate the investigation in accordance with Sub-Rule (5) of Rule 6 supra.
- c) The Authority invited the Government of Indonesia, Malaysia, Sri Lanka, Thailand and Vietnam for consultation with the aim of clarifying the situation and arriving at a mutually agreed solution in accordance with Article 13 of the Agreement on Subsidies and Countervailing Measures. While consultations were held with the Government of Malaysia (GOM), Government of Indonesia (GOI) and Government of Vietnam (GOV) on 9th, 10th and 11th October 2019 respectively, the Government of Thailand did not avail the opportunity for consultations and Government of Sri Lanka made written submissions. The written submission of representatives of the responding Government of subject countries have been taken on record.
- d) The Authority issued a public notice dated 05th November 2019 published in the Gazette of India Extraordinary, initiating countervailing duty/anti-subsidy investigation concerning imports of the subject goods from the subject countries.
- e) The Authority sent a copy of the initiation notification dated 05th November 2019 to the Embassies of subject countries, known producers/exporters from subject countries, known importers/users and the domestic industry as well as other domestic producers as per the addresses made available by the Applicants and requested them to make their views known in writing within the prescribed time limit in accordance with Rule 7(2) of the Rules.
- f) The Authority provided a copy of the non-confidential version of the application to the known producers/exporters and to the embassies of subject countries in India in accordance with Rule 7(3) of the Rules supra. Also, in view of the global pandemic and physical inaccessibility, request was made to all the interested parties to share the non-confidential versions of their submissions with other interested parties via email.
- g) The Embassies of subject countries in India were also requested to advise the exporters/producers from their country to respond to the questionnaire within the prescribed time limit. A copy of the letter and questionnaire sent to the producers/exporters was also sent to them along with the names and addresses of the known producers/exporters from the subject countries.
- h) The Authority sent questionnaires to the Governments of subject countries in order to seek relevant facts/information with regard to various schemes/programs where countervailable benefit might have been conferred by the Governments. Governments of Thailand, Malaysia, Sri Lanka, Vietnam and Indonesia filed a questionnaire response, which has also been taken into account.
- i) The Authority sent questionnaires to the following known producers/exporters in subject countries, in accordance with Rule 7(4) of the Rules:
 - i. M/s. Merbok MDF Lanka Pvt Ltd, Sri Lanka
 - ii. M/s. Dongwa Fibreboard Sdn. Bhd., Malaysia
 - iii. M/s. Daiken Sarawak Sdn. Bhd., Malaysia

- iv. M/s. Evergreen FibreBerhad (JB) Sdn. Bhd., Malaysia
- v. M/s. Evergreen FibreBerhad (EFB), Malaysia
- vi. M/s. Robin Resources (Malaysia) Sdn. Bhd., Malaysia
- vii. M/s. Segamat Panel Boards Sdn. Bhd.
- viii. M/s. Advance Fibre Co. Ltd., Thailand
- ix. M/s. KhonKaen MDF Board, Thailand
- x. M/s. Vanachai Panel Industries Co. Ltd., Thailand
- xi. M/s. Siam Fiberboard Co. Ltd., Thailand
- xii. M/s. Metro Fiber Co. Ltd., Thailand
- xiii. M/s. Vanachai Group Public Co. Ltd., Thailand
- xiv. M/s. Metro MDF Co. Ltd., Thailand
- xv. M/s. AndalanKarya Bersama PT, Indonesia
- xvi. M/s. PT Sumatera Prima Fibre Board, Indonesia
- xvii. M/s. PT Hijau Lestari Raya Fibreboard, Indonesia
- xviii. M/s. Kim Tin MDF Trading Co., Vietnam
- xix. M/s. MDF VRG Quang Tri JSC, Vietnam
- xx. M/s. Hong Duong Bamboo and Rattan Co. Ltd., Vietnam
- xxi. M/s. Vietnam Wooden Board, Vietnam
- xxii. M/s. Kim Tin Group JSC Ltd., Vietnam

j) In response, the following exporters/producers from the subject countries filed exporter's questionnaire response in the prescribed format:

- i. M/s. PT Mukti Panel Industri, Indonesia
- ii. M/s. PT Sumatera Prima Fiberboards, Indonesia
- iii. M/s. Advance Fiber Co. Ltd., Thailand
- iv. M/s. Metro MDF Co. Ltd., Thailand
- v. M/s. Wisewoods Co. Ltd., Thailand
- vi. M/s. Green Fiber Co. Ltd., Thailand
- vii. M/s. Agro Fiber Co. Ltd., Thailand
- viii. M/s. Panel Plus MDF Co. Ltd., Thailand
- ix. M/s. Panel Plus Co. Ltd., Thailand
- x. M/s. Vanachai Group Public Co. Ltd., Thailand
- xi. M/s. Vanachai Panel Industries Co. Ltd., Thailand
- xii. M/s. S. Kijchai Enterprise, Thailand
- xiii. M/s. Segamat Panel Boards Sdn. Bhd., Malaysia
- xiv. M/s. Robin Resources (Malaysia) Sdn. Bhd., Malaysia
- xv. M/s. MDF VRG Quang Tri Wood Joint Stock Co., Vietnam
- xvi. M/s. Kim Tin MDF Joint Stock Co., Vietnam
- xvii. M/s. FSC Vietnam Corporation, Vietnam

k) Pursuant to the initiation notification, apart from the above producers/ exporters from the subject countries, Government of Malaysia, Sri Lanka, Thailand, Vietnam and Indonesia have also filed the questionnaire response.

- l) The Authority sent Importer's Questionnaires to the following known importers/users of subject goods in India calling for necessary information in accordance with Rule 7(4) of the Rules:
- i. M/s. Ply Point
 - ii. M/s. Jacsons Veneers and Panels P. Ltd.
 - iii. M/s. Label Sales Corpn.
 - iv. M/s. Kalinga Imports & Exports P. Ltd.
 - v. M/s. Srivari Traders
 - vi. M/s. Victory Plywood
 - vii. M/s. Thamarapally Brothers
 - viii. M/s. Mathew Sons Exports & Imports P. Ltd.
 - ix. M/s. RJ Metals
 - x. M/s. Feroke Boards Ltd.
 - xi. Krishna Plywoods
- m) In response, M/s Thamarappally Brothers Veneers and Panels Pvt. Ltd. have responded and filed importer's questionnaire response.
- n) The Authority made available non-confidential version of the evidence presented/submissions made by various interested parties in the form of a public file kept open for inspection by the interested parties. Later on, due to inaccessibility of public file in the wake of global pandemic of COVID-19, all interested parties were asked to share the non-confidential versions of all their submissions with all other interested parties via emails.
- o) Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to provide the transaction-wise details of imports of subject goods for the past three years, and the period of investigation, which was received by the Authority. The Authority has, relied upon the DGCI&S data for computation of the volume of imports and required analysis after due examination of the transactions.
- p) The Non-Injurious Price (NIP) based on the cost of production and cost to make & sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) and Annexure-III to the Anti-Dumping Rules has been worked out so as to ascertain whether Countervailing duty lower than the subsidy margin would be sufficient to remove injury to the Domestic Industry.
- q) Considering the fact that the subject goods are being imported in various grades/sizes/forms, the applicants have proposed Product Control Numbers (PCNs) in order to make a PCN-to-PCN comparison for computing the injury margin. After receiving comments on proposed PCN methodology from the interested parties including domestic industry Authority proposed to adopt the PCN methodology as published vide notification 6/17/2019-DGTR dated 20th December, 2019.
- r) The Period of Investigation (POI) for the purpose of the present anti-subsidy investigation is from April, 2018 to March, 2019 as the investigation period, and data/information for the period 2015-16, 2016-17, 2017-18 and the period of investigation as the injury period.

- s) In accordance with Rule 7(6) of the Rules, the Authority also provided opportunity to all interested parties to present their views orally in a hearing held on 30th July, 2020. All the parties who attended and presented their views in the oral hearings were requested to file written submissions of their views expressed orally. The parties were also advised to circulate non-confidential versions of their written submissions to opposing parties and were provided an opportunity to submit their rejoinders thereafter.
- t) In accordance with the Rules the Authority disclosed the essential facts of the case that would form the basis of its findings in the form of a disclosure statement on 22nd January 2021 and the interested parties were allowed time up to 28th January 2021 to comment on the same. The comments of the interested parties, to the extent relevant, have been considered by the Authority and have been addressed in these Final Findings.
- u) Subsequently, another oral hearing was held on 17th February, 2021 in view of the change of the Designated Authority, as per the judgment of the Hon'ble Supreme Court in the matter of Automotive Tyre Manufacturers' Association (ATMA) vs. Designated Authority, in Civil Appeal No. 949 of 2006 on 07.01.2011. All the parties who attended and presented their views in the oral hearing were requested to file written submissions of their views expressed orally. The parties were also advised to circulate non-confidential versions of their written submissions to opposing parties and were provided an opportunity to submit their rejoinders thereafter. The submissions made by the interested parties during the course of this investigation, wherever found relevant, have also been addressed in these Final Findings.
- v) The Authority issued a letter on 24th March, 2021 to the responding Governments and producers/exporters from subject countries seeking further information on the alleged provisions for goods and services in the subject countries and were asked to provide the information by 31st March, 2021 which was later on extended till 5th April based on the request for extension by few interested parties.
- w) Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.
- x) Wherever an interested party has refused access to or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has considered such parties as non-cooperative and recorded these Final Findings on the basis of the facts available.
- y) Verification of the information provided by the Applicant Domestic Industry by way of table study, to the extent deemed necessary, was carried out. Only such verified information with necessary rectification, wherever applicable, has been relied upon for the purpose of these Final Findings.
- z) Desk Verification of the information provided by the producers/ exporters, to the extent deemed necessary, was carried out by the Authority and has been relied upon for the purpose of these Final Findings.

- aa) A Disclosure Statement was issued to interested parties on 21st April 2021 containing essential facts under consideration of the Designated Authority, giving time up to 26th April 2021 to furnish comments, if any, on the Disclosure Statement. The Authority has considered post disclosure comments received from interested parties appropriately in the present final findings.
- bb) The exchange rate adopted by the Authority for the subject investigation is US\$1 = ₹70.82.
- cc) In these Final Findings ‘***’ represents information furnished by an interested party on confidential basis and so considered by the Authority under the Anti-Subsidy Rules, 1995.

C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

4. At the stage of initiation, the product under consideration was defined as:

The product under consideration in the present investigation is “fibre board of wood or other ligneous materials, whether or not bonded with resins or other organic substances”, classifiable under classified under heading 44.11 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).

C.1. Submissions made by the Domestic Industry

5. The submissions made by the domestic industry with regard to product under consideration and like article and considered relevant by the Authority are as follows:
- a) The product under consideration is “fiberboard of wood or other ligneous materials, whether or not bonded with resins or other organic substances”.
 - b) Fiberboards is a type of engineered wood product that is made out of wood fibers. Types of fiberboard include medium-density fiberboard (MDF), and hardboard (high-density fiberboard, HDF). The scope of the product under consideration also includes laminated fiberboard. It is used in building and construction, furniture, industrial, handicrafts purposes, etc.
 - c) Following are excluded from the scope of the product under consideration -
 - a. Flooring boards
 - b. Sunmica
 - c. Insulation board
 - d. Coir boards
 - e. Jute fibre board
 - d) The unit of measurement prescribed by the Govt. is “weight”. The product under consideration is measured in terms of numbers, pieces, Square Meter, Cubic Meter (CBM), Kgs. and MT. Weight has been adopted, with MT as the unit of measurement.
 - e) Hardboard is included in the PUC as seen from the initiation notification. The domestic industry strongly objects to its exclusion. The PUC does not include plyboard. The interested parties have not provided any details on product types not manufactured by the domestic industry. The CESTAT order in Huawei Technologies Ltd. v. Designated

Authority is relied on where it was held that it is not necessary for the domestic industry to manufacture each and every grade/type of the PUC.

- f) There is no difference in the subject goods produced by the domestic industry and exported from subject countries. Subject goods produced by the domestic industry and imported from the subject countries are comparable in terms of physical & technical 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 product manufactured by domestic industry is like article to the product imported from subject countries.

C.2. Submissions made by the other interested parties

6. The submissions made by the exporters, importers, users and other interested parties with regard to product under consideration and like article, and considered relevant by the Authority, are as follows:
 - a) The hardboard is not included within the scope of the PUC since it has not been specified in the Final PCN notification or the Initiation Notification. The Authority stated in the Disclosure Statement that hardboard is within the scope of the PUC which is contrary to the Domestic Industry's position. Hardboard is excluded from the scope of the PUC as evident from the PCN finalized by the Authority. Hardboard is not "like" article to products identified in the PCN. Even the domestic industry has acknowledged the same. A clarity on the same is required.
 - b) The scope of the PUC will include MDF, plywood, and blockboards as long as it is made up of wood fiber. These three are produced by Century Plyboards also. Plyboard should also be included within the scope of PUC as plyboard is like the product to fibreboard and the same is made up of wood fibres bonded with resins and other organic substances. Those sub-categories of fibreboard not produced by the Domestic Industry should be excluded.
 - c) In the previous investigation concerning subject goods, the Indian producers as well as the Authority has adopted weight as the unit of measurement.
 - d) Although prescribed unit is 'weight', custom authorities have cleared goods quantified in weight, cubic meters ('CBM') as well as in weight.
 - e) Authority is requested to confirm CBM as unit of measurement in the present investigation.
 - f) Even the Domestic Industry sells in domestic market using CBM as a unit. Annual Reports of the Domestic Industry show CBM as the unit. Worldwide, CBM is recognized as the unit of measurement.
 - g) Conversion of CBM into MT may not reflect the actual volume and prices of imports since CBM and MT do not have a linear relationship for conversion. Conversion may result into skewed and incorrect assessment.

- h) Cubic meters have been used as the unit of measurement in a plethora of past investigations by the Authority.
- i) The Authority has not prescribed any unit in the present investigation. The Authority should use cubic metric as the unit of measurement as in the previous investigations. Although Customs Tariffs Act uses weight, the Indian Customs cleared goods in CBM as well. The domestic producers undertake sales in domestic market in CBM. The Annual Report of the domestic producers uses the same unit. CBM is globally recognized and commercially used. The Authority has prescribed PCN in the present case based on product specifications and not on weight.

C.3. Examination by the Authority

7. The Authority has noted the submissions made by various interested parties with regard to scope of the product under consideration and like article offered by the domestic industry.
8. The product under consideration (PUC) in the present investigation, is "fibre board of wood or other ligneous materials, whether or not bonded with resins or other organic substances", Fibreboards is a type of engineered wood product that is made out of wood fibers. Types of fibreboard include medium-density fiberboard (MDF) and high-density fiberboard (HDF).
9. Following are excluded from the scope of the product under consideration
- a) Flooring boards
 - b) Sunmica
 - c) Insulation board
 - d) Coir boards
 - e) Jute fibre board
 - f) Moulded Door Skin
10. The product is classified under heading 44.11 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975). The scope of the product under consideration is the products classifiable under following HS codes:

4411	<i>Fibre board of wood or other ligneous materials, whether or not bonded with resins or other organic substances</i>
	<i>- Medium density fibre board (MDF)</i>
4411 12	<i>-- Of a thickness not exceeding 5mm</i>
4411 13	<i>-- Of a thickness exceeding 5mm but not exceeding 9mm</i>
4411 14	<i>-- Of a thickness exceeding 9mm</i>
	<i>- Other:</i>
4411 92	<i>-- Of a density exceeding 0.8 gm/cm³</i>
4411 93	<i>-- Of a density exceeding 0.5 gm/cm³ but not exceeding 0.8 gm/cm³</i>
4411 94	<i>-- Of a density not exceeding 0.5 gm/cm³</i>

11. The subject goods are being imported in various grades/sizes/forms, the applicants have proposed Product Control Numbers (PCNs) in order to make a PCN-to-PCN comparison for computing the injury margin. The Authority vide initiation notification requested parties to

provide comments on the PCN proposed by the Applicants. After considering the views of the interested parties on the PCN, the Authority vide notification 6/17/2019-DGTR dated 20th December, 2019 finalized the following PCN.

SN	Parameter	Explanation
1.	Density	This refers to the density which belongs to : M: Medium Density Fiberboard H: High Density Fiberboard
2.	Thickness	This refers to range of thickness X : of a thickness not exceeding 5mm Y: of a thickness exceeding 5 mm but not exceeding 9mm Z: of a thickness exceeding 9 mm
3.	Plain and Non-Plain	This field represents whether plain and non-plain: P: Plain N: Non-Plain (Laminated or Printed or Painted)
4.	Application Type	This field represents whether it is used for interior or exterior purpose: I: Interior E: Exterior

12. As regards Plywood in the scope of product under consideration, it is noted that the Applicants have filed the present investigation for imposition of anti-subsidy duty on Fibreboard. The Applicants have never requested imposition of anti-subsidy duty on Plyboard and the information of the same is not on records. Therefore, the same is outside the scope of the present investigation.
13. With regard to the argument of Unit of measurement, the Authority for the purpose of present investigation has considered CBM as a unit for measurement.
14. With regard to like article, Rule 2(ca) of the Anti-subsidy Rules provides as under:
- "like article" means an article which is identical or alike in all respects to the article under investigation 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."*
15. It is noted that there is no known difference in the subject goods produced by the Indian industry, and product under consideration exported from subject countries. Subject goods produced by the Indian industry and imported from Malaysia are comparable in terms of characteristics such as physical 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 subject goods produced by the domestic industry are like article to the product under consideration imported from subject countries within the scope and meaning of Rule 2(d) of anti-subsidy Rules.

D. SCOPE OF DOMESTIC INDUSTRY & STANDING

D.1. Submissions made by the Domestic Industry

16. The submissions made by the domestic industry during the course of the investigation with regard to scope of domestic industry & standing are as follows:
- a) Applicant companies' production constitutes more than 50% of Indian production. Accordingly, the applicant companies account for "a major proportion" of Indian production and therefore constitute "Domestic Industry" within the meaning of Rule 2 (b) of the CVD Rules.
 - b) Including applicants there are only 9 producers of the subject goods in Indian. The domestic industry has determined the total Indian Production taking into accounts production of all the 9 producers as per their own information. Following are the only producers of the product under consideration in India.
 - i. Greenply Industries Limited
 - ii. Rushil Decor Limited
 - iii. Century Plyboards (India) Ltd.
 - iv. Action Buildwell
 - v. Shirdi Industries Limited
 - vi. Mangalam Timber
 - vii. Pioneer Panel Product
 - viii. Metro Panels
 - ix. Ranga Particle Board
 - c) The applicant companies have neither imported the subject goods nor are related to any exporter or importer of the subject goods in the subject countries and importers in India either directly or indirectly.

D.2. Submission of other interested parties

17. The submissions made by interested parties with regard to the scope and standing of the domestic industry are as follows:
- a) As per the data collected by the Respondents, the production of Applicants is 230k MT only and accounts for 15-25% of the total Indian production.
 - b) The producers of MDF, plywood, and blockboards should be included in the scope of the domestic industry to determine total Indian production.
 - c) Annual Reports of the applicants shows that Indian industry is fragmented and there are multiple new producers. Moreover, certain producers fall in MSME sector, but Applicants have only listed total of 9 producers in India. Authority is requested to include other producers in the scope of DI as well.
 - d) No evidence has been provided to confirm production of other Indian producers. As per para 4.9.16 of the Manual of Operating Practices for Trade Remedy Investigations issued by DGTR, the Designated Authority should independently verify the total domestic production of subject goods in India. The role of the investigating authority in objectively

determining total production was emphasized in China – Broiler Products case. Determination of total production should be conclusive and not mere assertion. The Manual of Operating Practices is relied on. Letter of support at a belated stage should not be taken on record.

- e) According to information collected by Thai Government, three domestic producers collectively do not account for a major proportion of total domestic production and does not qualify as Domestic Industry. Applicants' share is only 24.45% as per the Royal Thai Government.
- f) The Annual Report of the Applicants state that the Indian industry is fragmented and has numerous MSMEs. However, the Applicant has claimed that there are only 9 producers of the subject goods in India. The Applicant has failed to account for production of various other producers in India.
- g) The WTO Panel report in China – Broiler Products explained on the role of the investigative authority to objectively determine the total production as well as scope of the DI. The same should be conclusive and not mere assertion. The Manual of Operating Procedures states the DA should independently verify the total domestic production. The Authority is requested to include other domestic producers within the scope of DI. Belated filing of support letters if any should not be taken on record.
- h) Public file maintained by the Authority does not show that the supporting producers have filed the supporting producer's questionnaire. Clarification is required on whether the Authority has considered supporters in the present application.

D.3. Examination by the Authority

18. The application has been filed by Greenply Industries Limited/ Greenpanel Industries Limited, Century Plyboards (India) Ltd. and Rushil Decor Limited. As per the evidence available on record, following are the other producers of the product under consideration, who have supported the application and provided details of their production.
- a) Action Buildwell
 - b) Shirdi Industries Limited
 - c) Mangalam Timber
 - d) Pioneer Panel Product
 - e) Metro Panels
 - f) Ranga Particle Board
19. As per the evidence available on record, production of the applicants account for ****% of the total domestic production. Further, as per the available information, the applicants have neither imported the subject goods from subject countries nor are they related to any other producer/exporter of subject goods in subject countries or any importer in India. Further, the applicants account for a major proportion in Indian production of the subject goods.
20. The Authority, therefore, determines that the applicants constitute domestic industry within the meaning of Rules 2(b) and satisfy the criteria of standing in terms of Rules 6(3) of the

E. ISSUES RELATING TO CONFIDENTIALITY

E.1. Submissions by domestic industry

21. The following submissions have been made by the domestic industry with regard to confidentiality issues:

- a) Despite the specific instructions, by the Authority mandating exporters and governments to provide a meaningful non-confidential version of the questionnaire response. On failure to provide the same, the information shall be disregarded. In the few cases where information has been provided, the same is excessively confidential. No meaningful summary has been provided to the Domestic Industry.
- b) Questionnaire Responses submitted by parties, Metro and Advance, stand out in terms of exploiting and grossly violating the confidentiality provision. It is seen that entire replies in standard questionnaire have been claimed as confidential. Domestic Industry fails to understand need for confidentiality in providing details about a subsidy program.
- c) The responding exporters have claimed excessive confidentiality on information which is publicly available. The exporters have not provided meaningful non-confidential summaries to the information claimed confidential. It is requested to the Authority to reject the questionnaire response filed by the above opposing interested parties and base the determination on facts available.
- d) Market share and production have been provided in the NCV as per Trade Notice. The Petitioners are unable to produce production of other producers as it is third party information and DI is not authorised to disclose the same.
- e) On the issue of sharing the DGCI&S data, the decision in Exotic Décor Pvt. Ltd. v DA and Ors, relied on by interested parties, is not applicable to the present case. As held by the SC in DA v. Haldor Topsoe A/S, only those principles of natural justice provided in the statute are applicable. Neither Indian Rules nor WTO law requires data to be given in any prescribed format as long as it is available to interested parties.
- f) On issue of compliance with the Trade Notice 10/2018, the DI includes two producers till 2016-17. Now giving all data would help understand performance parameters of the third producer which is business sensitive.
- g) Market share and production have been provided in the NCV as per Trade Notice. The Petitioners are unable to produce production of other producers as it is third party information and DI is not authorised to disclose the same.
- h) On the issue of sharing the DGCI&S data, the decision in Exotic Decor Pvt. Ltd. v DA and Ors, relied on by interested parties, is not applicable to the present case. As held by the SC in DA v. Haldor Topsoe A/S, only those principles of natural justice provided in the statute are applicable. Neither Indian Rules nor WTO law requires data to be given in any prescribed format as long as it is available to interested parties.

- i) On issue of compliance with the Trade Notice 10/2018, the DI includes two producers till 2016-17. Now giving all data would help understand performance parameters of the third producer which is business sensitive.
- j) The questionnaire responses filed by S. Kijchai and Thamarapally Brothers should be rejected for gross violations of the laws of confidentiality.
- k) The Disclosure Statement issued shows that the responding producers/exporters have availed certain programs but suppressed them in the EQRs. The extend of suppression of information warrants application of adverse facts available and raises questions on adequacy and accuracy of information provided.
- l) The unit of measurement was changed by the designated authority on the argument raised by the interested parties.

E.2. Submissions by other interested parties

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

- a) Trade Notice/guidelines/judgments issued on confidentiality for ADD are also squarely applicable in subsidy investigations and the DI be compelled to follow the said guidelines in totality
- b) Applicants have not provided information in the non-confidential version (NCV) as per the Trade Notice 10/2018.
- c) The NCV of the Petition does not allow for a reasonable understanding of the allegations and impairs the ability of the exporters to defend their interests.
- d) Trade Notice is binding on Authority; therefore, Applicants cannot be allowed to act in contradiction to the Trade Notice.
- e) The claim of excessive confidentiality is contrary to Rule 8 of the CVD Rules, principles of natural justice, and binding precedents of the CESTAT and other judicial forums.
- f) Petitioners have not provided any information with respect to their production or market share in Annexure 2.2 of the petition. Aggregate production of DI and share in the market has not been provided.
- g) Trade Notice/guidelines/judgements issued on confidentiality for ADD are also squarely applicable in subsidy investigations and the DI be compelled to follow the said guidelines in totality. Ref: Sterlite Industries (India) Ltd. v. Designated Authority, confidentiality should not be granted automatically and should be based on thorough scrutiny.
- h) Information like demand, production quantity, sales quantity etc has been claimed confidential without which it is difficult for other interested parties to examine the injury parameters.

- i) In present case, confidentiality has been granted by Authority automatically without a thorough evaluation of the information to which the confidentiality claim pertains. Ref: H&R Johnson (India) Ltd. v. Designated Authority, Designated Authority should be satisfied about the confidentiality of the information on the basis of various factors. DS 397 European Communities – Certain Iron and Steel Fasteners, under Article 6.5 of ADA, it is for the party to show good cause for claiming confidentiality and the Authority needs to objectively assess the good cause alleged and further scrutinize the claims.
- j) The principles laid down in Trade Notice 10/2018 shall mutatis mutandis apply to the anti-subsidy investigations as well. The Application is not as per the Trade Notice as applicable for 3 or more producers. The Rules are identical for both Anti-Dumping and Anti-subsidy.
- k) DI used DGCI&S transaction wise data, but the same, as well as segregated data has not been placed in the Public file for inspection. In Exotic Décor Pvt. Ltd. v DA and Ors., it was held that data provided is to be supplied in the same form and manner as filed before the Authority. It has been requested to provide data in excel format as the same is already on record.
- l) Petitioners have not provided the transaction wise import data relied upon. It is unclear whether all the transactions have been included as PUC and non-PUC. Further, the Petitioners have failed to provide segregation methodology.
- m) The Indonesian producers have cooperated with the Authority throughout the investigation and submitted all required information.
- n) Petitioners have revised data from MT to CBM at the fag end of the investigation without providing the non-confidential revised data to other interested parties. Petitioner have never provided volumes and other injury related information in cubic meters.
- o) The claims by the domestic industry on confidentiality claims by the Royal Thai Government (RTG) is baseless. RTG has completely cooperated with the investigation. Metro Group has provided all requisite details and reasons for confidentiality.
- p) The alleged related companies of Kim Tin are only users and not involved in the production or sale of the subject goods.

E.3. Examination by the Authority

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

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

(2) The designated authority may require the parties providing information on confidential basis to furnish non-confidential summary thereof in sufficient details to permit a reasonable understanding of the substance of the confidential information and if, in the opinion of a party providing such information, such information is not susceptible of summary, such party may submit to the designated authority a statement of reasons why summarization is not possible.

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

24. The Authority made available non-confidential version of the information provided by various interested parties to all interested parties through the public file containing non-confidential version of evidences submitted by various interested parties for inspection.
25. Submissions made by the domestic industry and other opposing interested parties with regard to confidentiality to the extent considered relevant were examined by the Authority and addressed accordingly. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis. The Authority made available the non-confidential version of the evidences submitted by various interested parties in the form of public file. The Authority also notes that all interested parties have claimed their business-related sensitive information as confidential.
26. As regards M/s S Kijchai's submission of Exporter's Questionnaire Response, it is seen that it has failed to provide a meaningful summary of the confidential submissions in the form of Non-confidential version submitted to the Authority. In the limited summary provided by the company, it has asked to refer to Confidential version for most of the detailed information. Similarly, M/s Thamarappally Brothers Venners and Panels Pvt. Ltd has filed the Importer's Questionnaire Response but has not circulated the non-confidential version to the other interested parties. The Authority notes that such a limited submission and non-circulation has impeded the opportunity for the other interested parties to make meaningful comments on the Exporter and Importer Questionnaire responses filed by the above companies. The Authority, therefore, holds to reject the response filed by the aforementioned companies in view of violation of sub rule 2 of Rule 8 of Anti-Subsidy Rules, 1995.
27. As regards disclosure of DGCI&S data, the Authority's Trade Notice No. 7/2018 dated 15th March, 2018, prescribes the procedure for collecting DGCI&S data for Domestic Industry as well as for other interested parties. The interested parties, thus, had access to procure DGCI&S data by following the procedure prescribed as per the Trade Notice and defend their interests. The Authority thus notes that the procedure being applied is consistent, uniform across

investigations and provides adequate opportunity to the interested parties to defend their interests.

F. MISCELLANEOUS SUBMISSION

F.1 Submissions by domestic industry

28. The following submissions were made by the domestic industry:

- a) Interim duties should be imposed in the instant case for the following reasons:
 - i. Since seeking further information from responding governments and producers and a detailed investigation will be time consuming, it is requested that interim duties be imposed.
 - ii. Average capacity utilisation of the DI declined to 60% in the POI from 109% in 2016-17. It has declined further due to the COVID situation.
 - iii. Imports from the subject countries increased during the POI.
 - iv. Demand has declined to 20% of what it was in the POI. Even after a full recovery from the COVID situation, it is expected to be around 40-60%. This is because the PUC is not an essential good and the decline in buying power.
 - v. Installed capacity in major exporting countries is substantially higher than domestic demand.
 - vi. They also benefit from significant countervailable subsidies exceeding 30% and thus able to reduce prices. With decline in capacity utilisation, the DI is expected to suffer an overall increase in cost of production and will be required to sell at a reasonable price even to recover costs.
 - vii. The imports were cheaper than the DI during the POI. Though the DI has to increase prices to recover increasing costs, the DI faces a price pressure from the imports.
 - viii. If unprotected for 6 months, the industry will fall into sickness due to outstanding loan of Rs. 1000 crores and cumulative wage bill of Rs. 750 crores.
 - ix. Low capacity utilisation will lead to low RM usage and thus impact livelihood of farmers.
- b) The Sri Lankan exporters should be held non-cooperative due to their failure to file Questionnaire Responses.
- c) The ASCM only requires the Applicant to produce reasonably available evidence at the time of filing Application. WTO Panel Report in China- Flat rolled electrical steel from US (DS 414) is relied on. The Applicant has produced all evidence available in the public domain and the same was scrutinised by the DA. Pre-initiation consultation with governments of subject countries was also conducted.

- d) With regard to FSC's claim that they do not export to India and hence the investigation is not applicable to them, the questionnaire instructions state that the Company is supposed to reply to the extent it relates to them.
- e) A single subsidy margin and injury margin should be granted to individual companies related to each other. The following should be treated as a group: (a) Vanachai Group and Vanachai Panel (Thailand), (b) Panel Plus Co. and Panel Plus MDF (Thailand), (c) Kim Tin and FSC (Vietnam), and (d) Green Fiber and Agro Fiber (Thailand). Even if no margin is quantified for FSC, Kim Tin's margin should be cumulated with it.
- f) Only one importer filed a questionnaire response and showed no commitment to the investigation post filing of response. Further, no users participated in the investigation. The absence of participation and questionnaire response from users show that they are not adversely impacted by the present investigation.
- g) The imposition of countervailing duty is in the interest of the domestic manufacturers as it will arrest the decline in performance of the industry and redress injury suffered. It would also be in the interest of consumers as it is in the interest of consumers and public at large that a competitive domestic industry exists. Not protecting the domestic industry would directly jeopardize investments and lead to unemployment of many. The eventual impact on end products will be insignificant. Due to widening trade deficit and dwindling forex reserves, it is important to rely more on domestic production capacities. The domestic industry directly and indirectly creates 20,000 to 25,000 employment and has significant potential to increase farmers' income.
- h) The injury to the domestic industry is due to low priced imports. The domestic industry is unclear on the extent to which low prices is due to dumping and due to subsidies within the overall injury margin. The domestic industry has not sought relief beyond the injury margin. Dumping or subsidy need not be the only cause of injury suffered by the domestic industry. There is no bar on simultaneous AD and CVD investigations. The CESTAT order in Suncity Sheets Pvt. Ltd. v. Union of India, later upheld by the Supreme Court, is relied on.
- i) The present investigation being a fresh investigation should be restricted to the POI only. The Authority does not examine post-POI. Raising arguments on post-POI at such a belated stage shows malafide intention of the interested parties. The post-POI information on record in the AD investigations on Thick MDF and Thin MDF shows domestic industry is suffering injury even in post-POI.

F.2 Submissions by other interested parties

29. The following submissions have been made by other interested parties;

- a) Application lacked any evidence showing that the alleged subsidies were being availed by the producers/ exporters.
- b) Policy documents alone cannot be construed as reliable evidence to justify the existence of a subsidy being availed by the producers/ exporters.

- c) Initiation of CVD investigation without such evidence goes against Article 11 of the ASCM and Rule 6 of the CVD Rules.
- d) Existence of a program cannot be treated as existence of countervailable subsidy unless countervailability is proven.
- e) The Petitioner claims the subsidy margin is substantial and quantifies them for each country without explaining the basis of the calculation. The Petitioner has also admitted in the petition on p. 52 that the subsidy margins are not precisely quantified.
- f) The initiation of the investigation has mischaracterized and misinterpreted the Trade Policy Report especially with regard to log export ban and investment and taxation regulation on the Indonesian fiberboards industry. The initiation does not satisfy the requirements under Article 11.1, 11.2 and 11.3 of the ASCM.
- g) Evidence from past anti-subsidy investigations in other jurisdictions cannot automatically apply in this investigation especially when there is a different product in this investigation.
- h) The applicant had not submitted sufficient evidence of injury and causal link for initiation of investigation.
- i) Request for interim duties due to violation of Rule 10 of Questionnaire by Indonesian exporters is baseless and without merit. The claim under low-capacity utilization is baseless, and misleading. The claim on increased imports is misleading and wrong since Sri Lanka was wrongly included in cumulative assessment despite de minimis imports and since Indonesian imports declined significantly in the POL. The claim under likely decline in demand is without any evidence and likelihood analysis has no relevance. The claim of significant countervailable subsidy exceeding 30% is without any support of facts and evidence. The claim based on dependence of farmers is not appropriate since there is no public interest clause in the anti-subsidy rules.
- j) The claim for interim duties is not warranted since it is based on temporary adversities due to huge capacity additions. There is no reduction in production. Reduction in capacity utilization is due to capacity additions, and trends in imports have no correlation to the financial situation of the DI. DI has failed to show any serious injury on account of alleged subsidized imports.
- k) The Applicants have failed to provide any additional and relevant fact warranting recommendation of provisional duties. The Applicants have failed to demonstrate the instant case is "appropriate" for the same.
- l) The subsidy claims made by the Applicant in the present investigation are mere assertions which are unsubstantiated with documentary evidence. The same does not meet the requirement for initiation under the ASCM. The WTO AB Report in US – Large Civil Aircraft (2nd complaint) is relied on.
- m) The subsidy margins should not be cumulated by merely adding individual subsidy margins. The same should be on the basis of weighted average method.
- n) Since FSC has not exported the subject goods to India, the margins should not be cumulated.

- o) Imposition of duties will impact cost of production for downstream industry and affect their profits and performance during time of COVID-19 pandemic. They also make the downstream Indian product un-competitive to global producers leading to increase of their imports.
- p) There is no reason for the non-application of Annexure III for the calculation of NIP.
- q) Any imposition of CVD would be harmful to the interest of the country as it will result in unreasonable profits for the DI and the burden will fall on the consumers.
- r) In a parallel SSR investigation, the Applicants claimed that injury is due to dumped imports from China, Malaysia, Thailand and Sri Lanka. As per DI, injury is not attributable to the alleged subsidy from subject countries alone.
- s) The steep increase in the profits of DI during the post POI period even without CVD should be considered while examining causal link. This shows that the pressure on the DI was due to slowdown in real estate and the same has started to mitigate. It would be unfair and against public interest to impose CVD when the situation has improved. The Authority is not barred from examining post-POI data. The quarterly results of Century MDF Division and Greenply are relied on.

F.3 Examination of the Authority

- 30. As regards adequacy and accuracy of the petition, the same has been analysed by the Authority at the stage of initiation and the Authority found that there is prima facie evidence of existence of countervailable subsidies on production and export of the subject goods in the subject countries and such subsidized imports are causing material injury to the domestic industry through their volume and price effects.
- 31. As regards interim duties, the same has not been recommended in view of the facts and circumstances of the present case.
- 32. As regards conducting parallel anti-dumping and anti-subsidy investigations, the Authority notes that there is no bar in conducting such parallel investigations.
- 33. As regards argument of considering information for post period of investigation, it is noted that the present investigation being a fresh investigation, there is no requirement of considering post period of investigation information.
- 34. As regards argument regarding cumulation of margins of related companies, it is noted that it is an established practice of the Department that margins of the individual related companies are cumulated for the Group Companies.

DETERMINATION OF SUBSIDY AND SUBSIDY MARGIN

- 35. The petition filed by Domestic Industry provided prima facie evidence of existence of countervailable subsidies in the subject countries to initiate the instant investigation. Consultations were held with the Government of Indonesia, Malaysia, and Vietnam on 10th Oct 2019, 9th Oct 2019 and 11th Oct 2019 respectively. The Government of Thailand did not

avail the opportunity for consultation. The Government of Sri Lanka availed the opportunity for pre-initiation consultations by only making written submissions. The producers and exporters from Indonesia, Malaysia, Thailand, Sri Lanka, and Vietnam were advised to file responses to the questionnaire and were given adequate opportunity to provide verifiable evidence on the existence, degree and effect of alleged subsidy program for making an appropriate determination of existence and quantum of such subsidies, if any.

36. The Government Questionnaire Responses have been filed by Governments of Indonesia, Malaysia, Thailand, Vietnam, and Sri Lanka.

37. The following producers/exporters from Indonesia, Malaysia, Thailand, and Vietnam have filed Exporter's Questionnaire Responses:

- i. M/s. PT Mukti Panel Industries, Indonesia
- ii. M/s. PT Sumatera Prima Fiberboards, Indonesia
- iii. M/s. Segamat Panel Boards Sdn. Bhd., Malaysia
- iv. M/s. Robin Resources (Malaysia) Sdn. Bhd., Malaysia
- v. M/s. Advance Fiber Co. Ltd., Thailand
- vi. M/s. Metro MDF Co. Ltd., Thailand
- vii. M/s. Wisewoods Co. Ltd., Thailand
- viii. M/s. Green Fiber Co. Ltd., Thailand
- ix. M/s. AgroFiber Co. Ltd., Thailand
- x. M/s. Panel Plus MDF Co. Ltd., Thailand
- xi. M/s. Panel Plus Co. Ltd., Thailand
- xii. M/s. Vanachai Group Public Co. Ltd., Thailand
- xiii. M/s. Vanachai Panel Industries Co. Ltd., Thailand
- xiv. M/s. S. Kijchai Enterprise, Thailand
- xv. M/s. MDF VRG Quang Tri Wood Joint Stock Co., Vietnam
- xvi. M/s. Kim Tin MDF Joint Stock Company, Vietnam
- xvii. M/s. FSC Vietnam Corporation, Vietnam

38. None of the producers/exporters of the subject goods from Sri Lanka have filed Exporter Questionnaire's Response.

G. General overview of the alleged Subsidy Programs

G.1. Submissions made by domestic industry

39. The following submissions were made by the domestic industry:

- i. The evidences for countervailability of the alleged subsidy programs have been provided in the detailed one pager. All parameters as per the ASCM and Indian CVD Rules have been met.
- ii. Various investigating authorities have found that the forestry sector of the timber industry in Indonesia is within the control of the government and prices of wood products are unfairly low due to this government intervention. Since the raw

- material used in both the paper industry as well as fiberboard industry are similar, i.e., "timber", the cases on paper industry are relevant to the present investigation.
- iii. As per evidence collected by the domestic industry, rubber wood prices cannot be less than USD 54.02/MT during the POI.
 - iv. The following are to be considered as "facts available" for the alleged subsidies from Indonesia. For Program No. 1 and Program No. 2, the Government of Indonesia (GOI) have subsidised the price of the essential input, i.e., wood/ logs. The term "timber" under Program No. 1 & 2 for Indonesia is not limited to any specific type of wood. Rubber wood falls within the scope of the same.
 - v. The PUC cannot be produced using rubber wood waste or fiber or paper as claimed by interested parties. They are revising their submissions and making misleading and false statements.
 - vi. Though raw materials may be purchased from private plantations, the level of government distortion leaves the timber market in Indonesia distorted. The dominant role played by the government artificially lowers the market prices. The US DOC's analysis in 'Coated Free Sheet Paper from Indonesia' and 'Certain Uncoated Paper from Indonesia'.
 - vii. Program No. 3 is available to all exporters. The scheme was held countervailable by the Authority in the Copper CVD case. Para 61 of the Disclosure Statement shows PT Bank Negara is a public body. The other interested parties are making false and misleading statements. For Program No. 3 for Indonesia, the exporter had the opportunity to suggest appropriate benchmark. Considering the suppression of facts, the Authority is entitled to apply facts available. Preferential lending is practiced irrespective of the currency. Such interest rates are lower than those prescribed by IMF, World Bank and Central Bank of the countries.
 - viii. The Authority in previous CVD investigations in copper wire rods, tempered glass, float glass, and stainless steel found export facilitation provided by the EXIM bank to be countervailable. Non-availment of a program does not make it non-countervailable.
 - ix. The responding producers/exporters have acknowledged that they are availing the benefit under Program No. 5. The program was held countervailable in the Copper CVD case. Program No. 6 was also previously held countervailable in the Copper CVD case. The GOI has failed to provide relevant legislations for the program.
 - x. Program No. 7 is not permissible as per footnote 1 to the ASCM and hence, prohibited. The same was found countervailable in the Copper CVD case.
 - xi. The GOI as well as the responding producers/exporters have failed to acknowledge and provide relevant information on the provision of land and electricity at LTAR. The Applicants have submitted relevant information and evidences for the same.
 - xii. The responding producers/exporters from Indonesia have not responded to the Standard Questions for Program No. 1. No evidence has been provided for using private plantations. The GOI rubber subsidies and AETS also makes raw material, i.e., wood cheaper.
 - xiii. None of the responding producers/exporters have responded to the Standard Questions for Programs No. 2, 3, 4, 6, 8, and 9. No evidence has also been produced to show non-availment of these programs.

- xiv. For Program No. 10 as raised by the GOI, Sumatera has not responded to the Standard Questions. Additionally, Mukti denies availing the benefit under the program while GOI states that they have availed the benefit. The Authority is requested to verify the claim by Mukti Panel that Government of Indonesia has clarified the non-availment of Program No. 10 for Indonesia. The said letter was not provided to the domestic industry.
- xv. The responding producers/exporters from Indonesia have denied any impact on domestic prices by the log export ban. This cannot be true.
- xvi. GOI and responding producers/exporters from Indonesia have not denied the existence of the export ban. The Applicant does not claim the ban itself is a countervailable subsidy but that it has distorted domestic prices, thus providing logs at LTAR.
- xvii. The responding producers/exporters have provided incorrect information about Program No. 1. Since 88% of land is owned by the government and wood supplied is subsidised, it is nearly impossible that the program was not availed. The scheme was found countervailable in the following investigations by the US Authority: Certain Lined Paper Products from Indonesia and Certain Uncoated Paper from Indonesia. The case regarding the paper industry is relevant to the instant case since the raw material is the same. The GOI acknowledged in Certain Uncoated Paper from Indonesia that standing timber is provided to the furniture industry.
- xviii. As per Article 33(3) of the Indonesia Constitution, the land is controlled by the government which is provided to companies at LTAR.
- xix. Electricity in Indonesia is heavily subsidized by Ministry of Finance Regulation No. 44 of 2017 which allows consumers to purchase electricity from PLN at LTAR. The Government of Indonesia retains the right of export of coal, export tax, and maintains domestic market obligations. A benchmark price for coal was also put in place for PLN. The final finding in the CVD investigation on imports of “flat products of stainless steel” from Indonesia is relied on.
- xx. The domestic industry calculated the subsidy margin using export price of bituminous coal for the rest of the world in 2018-19 as per trade map as the benchmark.
- xxi. The subsidy on land for plant/manufacturing unit is required to be quantified under Program No. 11 for Indonesia. The Authority has considered the most conservative benchmark for the same.
- xxii. The *de-minimis* rule is not applied on a program-wise basis but on an exporter-wise basis.
- xxiii. The Government of Malaysia (GOM) has failed to list out Malaysia External Trade Development Corporation (MATRADE), the Export-Import Bank of Malaysia Berhad (EXIM Bank), and the East Coast Economic Region Development Council as administering authorities and the source for identification of producers/exporters of the PUC from Malaysia. Several relevant information and annexures as required by the Questionnaire has not been provided by the GOM.
- xxiv. Neither the GOM nor the responding producers/exporters have acknowledged or provided any relevant information regarding the provision for standing timber for LTAR, the Government prohibition on log exports, and the Provision for Land and

- Electricity at LTAR. The Applicants have provided relevant information and evidence for the same.
- xxv. The responding producers/exporters from Malaysia have not provided any reasons for the non-availability of Programs No. 2, 3, 4, 5, 6, 7, 8/13, and 11.
 - xxvi. Additionally, for Program No. 5, Segamat Panel Boards Sdn. Bhd. (SPB) has not provided reasons for non-availability while Robin Resources (Malaysia) Sdn. Bhd. has replied to the wrong program.
 - xxvii. Programs No. 6 and 7 for Malaysia has already been held countervailable by the Authority in the Copper CVD case.
 - xxviii. Program No. 9 for Malaysia is specifically beneficial to sectors having high capital expenditure. For Program No. 9, SPB has not provided Standard Questions Annexure in NCV. They have also not answered Average Useful Life Annexure and the Allocation Annexure. Further, SPB has not provided reasons for the non-availability of Program No. 14 despite incurring eligible expenses.
 - xxix. While Robin has not provided reasons for non-availability of Program No. 16, Robin has not replied to the Standard Questions Annexure.
 - xxx. SPB has failed to even acknowledge the existence of Program No. 19 – Investment Tax Allowance that was acknowledged by the GOM.
 - xxxi. As per the website information of responding producers from Malaysia, rubber wood & tropical mixed wood are used as raw material for the production of the PUC.
 - xxxii. The government provides a replanting subsidy to support rubberwood plantation and dependent industries. The government has also maintained a ban on exports of rubberwood.
 - xxxiii. Rubberwood is not specifically excluded under the definition of “forest produce” as per the National Forestry Act. If no royalty is charged on rubberwood, as per the interested party, it further proves subsidies.
 - xxxiv. With regard to electricity at LTAR, the prices of natural gas, which is the primary source of power in Malaysia, are statutorily regulated for electricity sector. Hence, power is available to producers of the PUC at LTAR. The same was examined in previous investigations on “float glass” and “tampered glass” and found countervailable.
 - xxxv. The domestic industry has calculated the subsidy margin with export price of liquified natural gas for rest of the world in 2018-19 as per trade map as the benchmark.
 - xxxvi. The Government of Thailand has not provided information on amount of financial contribution provided under Programs No. 1, 2, 3, 5, 6, 7, and 8. Additionally, for Programs No. 1, 2, and 3, the relevant Tax Annexure has also not been answered. The GOT response to Program No. 9 is grossly incomplete. A complete Standard Annexure has not been provided by the GOT for Programs No. 10 and 11. The relevant Annexures are also not answered.
 - xxxvii. Program No. 1 for Thailand is limited to promoted activities and found countervailable in the Copper CVD case.
 - xxxviii. The USDOC in the CVD investigation on Hot Rolled Carbon Steel Flat found all subsidies under the Investment Promotion Act to be countervailable.

- xxxix. The benefit under Program No. 2 for Thailand is available to all companies holding a BOI certificate. Moreover, the Authority in the CVD investigation on Copper wire rod found that the Government of Thailand could not provide an explanation or evidence to show how the mechanism to ensure no excess benefit is provided operates. The DGTR may diverge from views of other foreign authorities based on their factual conclusions.
- xl. Program No. 4 for Thailand, is specific because it is available only for promoted activities. Carry forward can be a financial contribution because if a company makes a loss, the benefit can be availed in the subsequent periods. Program No. 6 is also only available for promoted activity and hence specific. Program No. 8 provides that dividend is exempted from income tax and hence, a financial contribution is provided.
- xli. Programs No. 1 to 8, which are administered by the Board of Investment of Thailand, have been previously held countervailable by the Authority in the Copper CVD case. The programs are specific as it is provided only for promoted activity.
- xlii. Agro Fiber, Advance Fiber, Metro M.D.F., Panel Plus MDF, S.P.B. Panel, S. Kijchai, Vanachai Panel Industries and Vanachai Group hold BOI certificates. Though available in public domain, it is claimed confidential by the GOT.
- xliii. Advance Fiber, and Wisewoods expanded their capacities in 2017. Panel Plus Group expanded their capacities in 2016. Vanachai Panel expanded its capacity in 2019. They should have availed the relevant subsidies. It is either restricting information to the POI or misleading the Authority.
- xliv. Neither the GOT nor the responding producers/exporters from Thailand have acknowledged or provided information on the provision for raw material (wood) and land at LTAR, and provisions for electricity at LTAR. The Applicant has submitted relevant information and evidences regarding the same.
- xlv. As per the website information of responding exporters from Thailand, rubber wood or eucalyptus is used as raw material for the PUC. The government of Thailand has taken the responsibility of planting rubberwood and collaborated with the Rubber Research Institute of Thailand and Royal Forest Department's Forest Research Institute to produce clones suited for timber production. The Authority needs to investigate the prices at which the producers/exporters procure the same.
- xlvi. The domestic Thai market for timber is distorted due to government control and logging licenses provided on levy of royalty which is not based on market principles and allows procurement of raw material at LTAR. Hence, it doesn't matter if the source of the raw material is state forest or private land.
- xlvii. The term 'prohibited wood' is not defined under National Reserve Forest Act, 1971. However, the term "wood" includes "all kinds of wood". Thus, rubberwood is within the scope of the legislation.
- xlviii. Out of all the responses filed by the responding producers/exporters from Thailand, no information was filed in 184 cases and information is inadequate in 9 cases.

- xlix. Vanachai Group, Vanachai Panel, Metro, Advance Fiber, Wisewoods, Panel Plus, S. Kijchai, and Agro Fiber hold BOI certificates. Unless evidence to the contrary is provided, it should be held that they have availed Programs No. 1 to 8 as they are all under the BOI. Programs No. 1 to 7 were held countervailable in the Copper CVD case.
- l. The responding producers/exporters have expanded capacities or added new plants during the AUL period and hence should be held that they have availed programs providing import duty exemptions on capital goods. They have maliciously claimed to be not availing them. Panel Plus, Wisewood, S. Kijchai, Advance Fibre, Vanachai Panel, FSC, Kim Tin MDF Joint Stock Co., and Sumatera have all set up new plants or expanded capacities.
- li. Though the responding producers/exporters from Thailand argue that the subsidy was received for the Company as a whole and not the PUC alone, the programs are of such a nature that the benefit would flow to the PUC. Further, money is fungible and the company can use how they desire. In a CVD investigation, the company as a whole is the subject of investigation and not just the product. The US PSF case against India is relied on.
- lii. The Authority needs to investigate provisions for land prevailing in Thailand. The analysis of the Authority for Program No. 12 in the Disclosure Statement is not contradictory. The other interested parties are confused on the analysis of wood at LTAR with land at LTAR.
- liii. The Government of Vietnam (GOV) failed to mention the General Department of Vietnam Customs, the Provincial Tax Departments, the Local Tax Authorities, and the Vietnam Development Bank as administering authorities. GOV has claimed certain webpages as confidential. These are violations of Section A, Point 5 of the guidelines under the Questionnaire. Relevant information to various questionnaires has not been provided by the GOV.
- liv. No specific replies have been provided by the GOV for Programs No. 8, and 9.
- lv. Neither the GOV nor the responding producers/exporters have acknowledged and provided relevant information on provision for timber at LTAR, Government prohibition on log exports, land preferences for encouraged industries or industrial zones under Decree 142, and provision for land at LTAR. The Applicant has provided relevant information and evidences in this regard.
- lvi. For Programs No. 1 and 2 for Vietnam, none of the responding producers/exporters have responded to the Standard Questions. Program No. 1 was already found countervailable in the Copper CVD case. For Program No. 3, Kim Tin MDF Joint Stock Co. and FSC have not responded to the Standard Questions. Kim Tin MDF Joint Stock Co. has not provided reasons for non-availment of them. Program No. 3 for Vietnam also includes procurement of machinery and equipment, component, parts and spare parts. The information on the same is required to be verified.
- lvii. For Program No. 4 for Vietnam, FSC and VRG have not responded to the Standard Questions. FSC has not provided reasons for non-availment. The Program was found countervailable by the Authority in the Copper CVD case.

- lviii. For Program No. 5 for Vietnam, none of the responding producers/exporters have responded to the Standard Questions. Kim Tin MDF Joint Stock Co. and FSC have not provided reasons for non-availment.
- lix. For Program No. 6 for Vietnam, Kim Tin MDF Joint Stock Co. and FSC have not responded to the Standard Questions or provided reasons for non-availment.
- lx. Programs No. 4 and 6 were found countervailable by the Authority in the Copper CVD case.
- lxi. For Programs No. 8 and 9 for Vietnam, none of the responding producers/exporters have responded to the Standard Questions or provided reasons for non-availment. The exporters should provide evidence to show that the interest rates paid on short-term loan is on par with the benchmark.
- lxii. Trade Policy Review of the WTO Secretariat has high evidentiary value regarding the local laws of a country.
- lxiii. For Program No. 10 for Vietnam, the intervention of the Government of Vietnam in the forestry sector distorts the domestic market for timber allowing its procurement at prices below international prices.
- lxiv. As per the website of the responding exporters of Vietnam, eucalyptus wood is used as raw material for the PUC. The prices for the procurement should be investigated by the Authority.
- lxv. The Government of Sri Lanka (GOS) provides goods at LTAR and imposes a log export ban. The producers who use timber as a their raw material have benefited from these programs. Subsidies provided for planting rubber trees have enabled rubber farmers to sell rubber wood at LTAR. Imports from Sri Lanka is above 4% and hence not below de-minimis.
- lxvi. Program No. 1 for Sri Lanka is contingent on exports and hence, prohibited. The program was found countervailable by the USDOC in Certain New Pneumatic Off-Road Tires from Sri Lanka.
- lxvii. With regard to Program No. 2 of Sri Lanka, no evidence has been submitted to show that Merbok was operating under the BOI Act till January 2019. No response has been filed by the Government of Sri Lanka or Merbok.
- lxviii. No responses were received on Programs No. 3 to 6. The Government of Sri Lanka and Sri Lankan producers of the subject goods should be held non-cooperative.
- lxix. The Government of Sri Lanka provides goods at LTAR and also imposes a log export ban. The producers who use timber as raw material is benefited from the program.
- lxx. The Authority needs to examine countervailability of the subsidy programs initiated against Sri Lanka.
- lxxi. The subsidy margin of power in the subject countries have been calculated with benchmark price taken from the website 'globalpetrolprices'.
- lxxii. Neither the responding producers/exporters or the government have responded under the head of "other subsidies".
- lxxiii. The benchmark adopted by the Authority is too conservative. The following alternative benchmarks may be more appropriate: (a) export price of similar type of wood used by responding exporters in the subject country, (b) highest/average cost of raw material (wood) by the DI together with their consumption norm, (c)

international price for wood/timber/log from World Trade Atlas, and (d) prices of wood/timber/log from major exporters of the subject goods to India apart from subject countries.

- lxxiv. New Zealand is an appropriate benchmark for quantifying subsidy schemes providing log/timber/wood at LTAR as per Article 14(d) of the ASCM. Due to distortion of domestic market due to government subsidies, the use of out-of-country benchmark is appropriate as per the "law of one price". Accordingly, New Zealand is an appropriate benchmark due to openness of its economy and significant volumes of export of logs.
- lxxv. Even after the alleged control of forestry sector by government of New Zealand, subsidization is seen in the subject countries. New Zealand was ranked 3rd in the 2018 Index of Economic Freedom and has lowest subsidies among the OECD countries. 95% of the exotic forestry plantations in New Zealand are privately owned and export controls are minimal. The license fee charged for harvesting in Crown forest land is as per market rate.
- lxxvi. The domestic industry has no objection to usage of log prices from New Zealand or another appropriate country to Thailand as benchmark if found appropriate by the Authority.
- lxxvii. There is no statutory restriction on the domestic industry from presenting evidences on benchmark. The Supreme Court decision in Haldor Topsøe is relied on.
- lxxviii. The Authority is not obliged to intimate the responding Govt. or producers/exporters about any new schemes.
- lxxix. The interested parties had enough time to counter the new subsidy allegations made by the applicant. Hence, there is no violation of the CVD Rules or the ASCM.
- lxxx. The domestic industry merely brought the fact regarding procurement of goods and services at LTAR found during the course of investigation. The same was done because the interested parties suppressed the said information.
- lxxxii. The Authority may use rubber wood prices as per trade map data and re-determine the subsidy margin.
- lxxxiii. The response of the interested parties on the new subsidy allegations should be treated as suppression of information.
- lxxxiii. The interested parties are required to provide evidence to show raw materials and utilities are at fair market price.

G.2. Submissions made by other interested parties

40. The following submissions were made by the other interested parties:

- i. The Petitioners have only provided statutory provisions but have not offered any explanation on nature or specificity. The onus to establish the same lies on the petitioners. Burden is not shifted on the exporter unless DI establishes the same.
- ii. For Program No. 1 & 2 for Indonesia, the program covers only standing timber but the responding producers/exporters use rubber wood/rubber wood waste. The responding producers from Indonesia produced the subject goods from raw

materials procured from private plantations. The program is not a subsidy as per the ASCM. The cases on the paper industry, relied on by the domestic industry, are not applicable to the fiberboard industry.

- iii. For Programs No. 1 and 2 for Indonesia, the Petitioner's allegations do not satisfy the requirements under Article 1.1(a), 1.1(b) and 1.2 of the ASCM. The Indonesian fibreboard industry uses rubber wood from private plantations and not state forests, as stated in the GOI questionnaire, and hence, Program 1 is not even applicable. The Petitioners wrongly assumed that the log export ban caused an oversupply of timber which led to distortion of timber price in the Indonesian domestic market. In fact, there is no oversupply and Indonesia imports timber in significant quantities (also increased by 43% in 2018 compared to 2014). The export ban is intended at conservation of the environment and is a measure widely used by countries. In *US- Export restraints*, it was found that export restraints are not countervailable as there is no financial contribution. Similarly, in export ban there is no financial contribution and as such no benefit is conferred.
- iv. On Program No. 1 it is submitted that PNT (Stumpage Value Replacement) fees has been revoked. The allegation that timber is available to the exporters at LTAR on account of the Cheaper stumpage fees is unsustainable as the MDF manufactures are using residue of logs, waste paper, fibres etc. for the manufacture of MDF.
- v. Since MDF manufactures globally are using residue of logs, waste paper, fibres etc., Program No.2 is not applicable on them.
- vi. The objective of Program No. 2 for Indonesia is to reduce deforestation and combat illegal logging in Indonesia. The WTO Panel in *US – Export Restraints* found that export restrains do not constitute countervailable subsidies under the ASCM.
- vii. Export facilitation provided by the EXIM bank was previously not countervailed by the Authority. For Programs No. 3 and 10 for Indonesia, over the course of 2017-18, the EXIM Bank and Bank Mandiri have not provided interest rates below the BI (Central Bank) rate. Moreover, they confirmed that none of the Indonesian fibreboard producers have any loan from them. Hence, DGTR should reject this allegation. For Program No. 3 for Indonesia, PT Bank Negara (BNI) is not a public body. The loan or program available in BNI is not specific. As per Panel report in *US (China)*, mere ownership does not constitute public body. None of the existing Indonesian fiberboard producers has any loan from the EXIM Bank and Bank Mandiri. Local currency interest rate cannot be used as a benchmark for foreign currency lending.
- viii. Programs No. 4 to 9 for Indonesia are provided under Indonesia's Law No. 25 of 2007 as per the Petitioner's claims. The law is for all sectors and for all regions. The Indonesian producers did not use 5 out of the 6 alleged programs. The only program availed was Program 7 which is neither specific nor confer any benefit to the Indonesian industry on the PUC. The Government of Indonesia provided additional information to show Mukti Panel has not availed Program No. 10.

- ix. It is submitted that the exporters have not taken any loan from EXIM bank under Programme No. 3. This claim can be cross-checked from the loan information provided in the audit reports of the exporters.
- x. As the exporters have neither taken any benefit of reduced income tax nor any such benefit is available to them, any claims with reference to Program No. 4 are incorrect.
- xi. The applicant that PT Mukti and PT Sumatera have procured the raw materials domestically i.e., not imported the raw materials. The audit reports of the exporters have been enclosed with their questionnaire response to verify the correctness of their claim.
- xii. The exporters have categorically mentioned that in their questionnaire response that they have not taken any relief of land and building tax. Therefore, the claim made by the applicant that PT Mukti and PT Sumatera, have not provided/answered the Standard Questionnaire for the Program is incorrect.
- xiii. PT Sumatera has categorically mentioned on page no 18 of its questionnaire response that it has not availed any benefit of income tax exemption. Further, complete details of the imports as well as the tax payable and paid on the same are provided.
- xiv. PT Mukti (Exporter) submits that it has provided complete details of the taxes paid on the imports in Annexure 8 of its response. It is reiterated that the exemption of income tax (PPH) for import materials and capital goods does not confer countervailable benefit as income tax for import is merely an instalment for annual payable income tax.
- xv. Factory prices in Tangerang is not an appropriate benchmark for Program No. 11 as the program pertains to forest land and Tangerang is located in a different island, i.e., Java. The mere assertion of the DI that Indonesian constitution, Article 33 (3) provides that land, water and natural riches contained therein shall be controlled by the state also does not substantiate as to how land is available to the respondents at LTAR. The submissions which were raised at WS stage should not be considered by the Authority.
- xvi. Indonesia's state-owned company, PLN serves all companies in Indonesia and hence, the program is not specific. The DI has, for the very first time included the subsidy margin of power in their submissions without even making any allegation of subsidization. GOI submits that it's against Article 12.7 of ASCM. In the absence of any claim or evidence with respect to power subsidization in Indonesia, the computation of subsidy margin provided by the DI is frivolous and does not hold any merit.
- xvii. The evidence relied by the DI for computation of alleged subsidies on "electricity" is sourced from website "globalpetrolprices", should not be considered because DI failed to supply a copy of the said document to other interested parties.
- xviii. There is no suppression of information by the responding producers/exporters as claimed by DI it is submitted that they have provide complete details to that of questionnaire responses and cooperated throughout the investigation hence their responses should not be rejected.

- xix. For Program No. 1 for Sri Lanka, remittance of NBT is not a subsidy under the ASCM by virtue of footnote 1 of the ASCM. The remittance is applicable to all exporters irrespective of the product. Footnote 1 states that exemption of exports from indirect taxes, as defined under footnote 58, is not a financial contribution. The same principle is also provided in the Ad Note to Article XVI of the GATT. Annex I(g) of the ASCM states that such remittance of indirect tax levied is not a subsidy if it does not exceed those levied for production and distribution of like products for domestic consumption. The remittance under this Program does not exceed this level. Annex II (1) also allows remittance of indirect taxes levied on inputs consumed for the production of exported products. NBT was abolished w.e.f. 1 Dec 2019.
- xx. For Program No. 2 for Sri Lanka, Merbok was operating under the BOI Act until Jan 2019. The Company benefited from the scheme from Jan 2019 and not before that.
- xxi. For Program No. 3, Merbok, since 2014, have been incurring losses and hence not liable to pay income tax. Hence, the program is not applicable.
- xxii. For Program No. 4, Merbok, since 2014, have been incurring losses and hence not liable to pay income tax. Hence, the program is not applicable.
- xxiii. For Program No. 5, it is a general subsidy and not provided to any sector specifically. It is available to all engaged in the agricultural sector. It does not benefit rubber producers specifically and not provided to exporters. Hence, neither an export subsidy nor actionable under ASCM. Merbok is not registered with the administering authority for the program to access it.
- xxiv. For Program No. 6, two schemes administered by the Rubber Development Board are provided exclusively to rubber growers. It is provided for new planting and replanting. The fiberboard producers from Sri Lanka use rubber logs which is a waste from the rubber industry. The waste wood and saw mill dust purchased by the fiberboard manufacturers are at market prices. It is purchased at a throw away price at the end of the lifetime of the tree. This purchase is not influenced by the scheme. Benefit is too remote and does not pass on to the fiberboard producers. The investigating authority must have evidence to show that the benefit has passed on from the first entity to the second to hold that such a subsidy exists for the latter. Hence, GOSL submits such a subsidy does not exist.
- xxv. If a subsidy is available to only "certain enterprises", it is specific. However, when an objective criterion is laid out and these conditions apply horizontally, there is no specificity. Activities designated by the BOI for promotion are extremely broad and include effectively business activities pertaining to almost every industry sector in Thailand. Any person can apply under Section 17 of IPA and undertake promoted activity. The criteria are broad. Thereafter, all programs are provided as a package. Although the companies have to separately apply when utilizing benefit.
- xxvi. Program No. 1 for Thailand provides exemption from payment, and not reduction in custom duties. Company has to first seek approval from BOI for a particular machinery. Only those machines not assembled in Thailand get the approval.

- Petitioners have incorrectly stated in the petition that Program 1 is "enterprise specific" without establishing the manner in which it is enterprise specific.
- xxvii. Designated Authority has erred in its analysis of Program No. 2. As has been noted in the USDOC finding, the BOI has an effective verification mechanism in place and thus, Program No. 2 is a permissible tax exemption program. Ref: Countervailing Duty Investigation of Glycine from Thailand (USDOC), BOI has an effective system to ensure no excess benefit is provided.
- xxviii. In Program No. 4, Petitioners have failed to substantiate why carry forward provisions under the BOI program are financial contribution or if they indeed are, how do they confer benefit. Specificity is absent as criteria is wide. No explanation for "enterprise specific".
- xxix. In Program No. 6, the program is not limited to any particular enterprise or industry and is available for a wide range of economic activity and hence is not specific.
- xxx. In Program No. 8, the benefit, if any, is not actually granted to the promoted company but to the shareholders of the promoted company.
- xxxi. In Program No. 9, remission of tax on exported goods, is a common and well established practice among various jurisdictions that follow the VAT system. The same was held to be not countervailable in Anti-subsidy investigation concerning imports of "Continuous Cast Copper Wire Rods".
- xxxii. The questionnaire responses are required to be filed by the Thai Government and not its agencies. Therefore, the suggestion that the Board of Investment, which is an agency of the Government, should have filed the responses is unsupported by law.
- xxxiii. It has been submitted by M/s Metro Group that it has cooperated with the Authority and filed its response to the questionnaire within the prescribed deadline providing all details as may be relevant. Metro Group submitted a complete questionnaire response and has also provided program specific annexures and relevant additional annexures, as applicable.
- xxxiv. Petitioners have alleged the existence of an additional program "Provision of raw material (wood) for Less Than Adequate Remuneration" exists but, the nature and application of such program is unclear. It is also unclear whether the Petitioners are alleging one subsidy program or several different subsidy programs. Lastly, it is unclear whether such alleged program(s) even confers a benefit on producers and/or exporters of the PUC.
- xxxv. Annexure 3.4 of the Petitioners' written submissions, that lists all the subsidy programs from Thailand only identifies the 11 programs as specified in the Initiation Notification and does not mention any additional programs such as the ones identified above. The Petitioners have not provided any evidence for any additional program such as extracts of laws or regulations to establish the existence of such program(s).
- xxxvi. Petitioners have claimed certain standard and relevant program specific annexures (referred to by the Petitioners as SA and RA) as 'deficient', without providing any reasons to substantiate its claims. Advance Fiber has in fact, submitted both the standard program specific annexure and relevant annexures, where applicable.

- xxxvii. Metro Group has submitted detailed questionnaire response and the determination of subsidy margin must be made on the basis of the information submitted and records maintained by Metro Group.
- xxxviii. Metro Group has disclosed all relevant information concerning addition of the capacities contrary to the claims made by the Petitioners. M/s Advance Fiber Co., Ltd, has disclosed adequate information on addition of the capacities. The same may also be analyzed from Format C, which would reflect that capacities were increased from 100 indexed points in year 2016 to 139 indexed points in 2017 to 177 indexed points in year 2018.
- xxxix. Rule 16(d) of the Anti-subsidy Rules 1995, no developing country can be considered for imposition of duties in case its share in the total imports is less than 4% but still Sri Lanka who's import are less than 4% has been considered as one of the subject countries.
- xl. Each program should be examined on the facts and circumstances of each case. A blanket application of previous finding in Copper wire rod case will be a violation of principles of natural justice.
- xli. Thai exporters have either not availed any countervailable subsidy in terms of the WTO ASCM or the amount of subsidy, if any, is below de-minimis level.
- xlii. The Applicants should mandatorily provide (a) evidence of the existence of alleged subsidy; (b) evidence of financial contribution by a public body; (c) financial contribution should confer benefit; and (d) the alleged program is specific in terms of the SCM Agreement. However, in the present investigation, the Applicants have failed to fulfil the abovementioned four criteria's and therefore, the Application should be rejected.
- xliii. As per the questionnaire response filed by RTG, alleged program nos. 1-8 are administered by the Office of the Board of Investment (BOI) in terms of the Investment Promotion Act B.E. 2520 (1977) ("IPA") as amended. Further, Program No. 1- 8 administered by the BOI in terms of IPA is available to almost every industry in Thailand.
- xliv. RTG allows exemption of import duty for the purpose of exports, as the same is permitted by the WTO SCM Agreement under Article 1. RTG also wishes to reiterate that BOI has an effective system to track import of raw material, consumption of input material for finished goods exported from Thailand; and to confirm that there is no excess benefit to the producer/exporters carrying out the promoted activity.
- xlv. Program No. 2 for Thailand is not availed by the responding producers/exporters. Only an excess benefit provided under the program can be countervailed, if any. The program was previously held non-countervailable by the USDOC.
- xlvi. Program No. 8 benefits the shareholders of the company, not the company itself. Therefore, the investigation should be terminated for Program No. 8.
- xlvii. RTG submits that Program No. 9 provides for remission of tax on exported goods which is otherwise borne by the like product when destined for domestic consumption in accordance with footnote 1 of the SCM Agreement. Further, the Authority in "Continuous Cast Copper Wire Rods" from Indonesia, Malaysia, Thailand, and Vietnam" noted that this subsidy program provides for exemption

from value-added tax on export of goods, applies to other business as well and therefore, no countervailing duty was recommended.

- xlvi. The benefit in a countervailing duty investigation should be examined from the perspective of the recipient. For ease of reference, the WTO DSB in the dispute titled Canada - Measures Affecting the Export of Civilian Aircraft and European Communities - Measures Affecting Trade in Large Civil Aircraft can be referred.
- xlix. With reference to Program No. 2 there is no financial contribution/subsidy under this program to Thai exporters of subject goods. To confirm the same, RTG extends its cooperation to the Authority and is willing to submit all necessary documents.
 - i. The Applicants have claimed that RTG has not furnished complete information for the Program No. 10 and 11. However, a perusal of the questionnaire response reflects that these programs do not constitute subsidy in terms of the SCM Agreement.
 - ii. For Program No. 11 for Thailand, the Authority countervailed only a few producers despite applying facts available. Facts available should not be applied in the present case for Program No. 11 for Thailand since the Thai exporters have cooperated with the Authority. Interpretation of Rule 7(8) of the CVD Rules as per the DGTR Manual and Article 12.7 of the ASCM as per the Panel Report in EC – Countervailing Measures on DRAM Chips are relied on. The letter filed by the EXIM bank shows that no benefit was availed by the Vanachai Group or Panel Plus Group. Moreover, the EXIM bank does not offer any loans.
 - iii. For a loan to be a subsidy, the same should originate from a government or public body and benefit should be conferred through a lower interest rate than comparable loan in the market. No evidence on the same is produced by the domestic industry. The loans taken by Metro Group are from commercial banks and at market rates.
 - lii. For Program No. 12 for Thailand, private land is excluded from the scope of the relevant act and rubberwood or any kind of firewood does not fall under the scope of 'prohibited woods.' The government is not engaged in the regulation of wood prices.
 - liv. The Applicants have claimed that RTG is providing raw material at less than adequate remuneration. However, the said claim is merely assertions and unsubstantiated.
 - lv. The analysis of the Authority in paras 323 and 324 of the Disclosure Statement is contradictory.
 - lvi. The claim of the domestic industry regarding Program No. 13 is incorrect and baseless. The price of electricity is uniform in nature and provided to all businesses and industries. Hence, not specific. No countervailable benefit is provided. The benchmark relied on by the domestic industry for quantification is erroneous as it takes into consideration only off-peak hour rates by the PEA and ignores all additional charges. Since PEA is the only regulatory authority for electricity supply in provisional areas of Thailand, there cannot be any other benchmark.
 - lvii. There is no requirement under the ASCM to provide reasons for non-availment of a program.

- lviii. Responding exporters from Malaysia submitted that as per the ASCM and the CVD Rules the parties should provide the details of subsidy availed in an investigation and it does not require one to explain why a particular program was not used as if there was some mandate on parties to avail all such programs.
- lix. The subsidy margin for Program No. 7 for Malaysia in the Disclosure Statement is negligible. No duty should be recommended against the same. The program does not meet the specificity requirement or is export contingent and hence, is not countervailable.
- lx. The disclosure statement contained quantification based on usage of schemes and the purpose of the investigation is not blanket determination of margin irrespective of the actual usage of the program.
- lxi. For Program No. 9 for Malaysia, capital allowance is neither specific nor export contingent. Program No. 12 for Malaysia does not meet the specificity requirement or is export contingent and hence, is not countervailable. For Program No. 9 & 12 for Malaysia, the subsidy margin quantified is more than the company's claim.
- lxii. Following footnote 1 of the ASCM, Program No. 11 & 13 shall not be deemed to be a subsidy.
- lxiii. For Program No. 20 for Malaysia, rubberwood is not covered within the definition of 'forest produce' under the relevant legislation. There is no royalty collected on rubberwood and hence, no waiver is possible.
- lxiv. For Program No. 22 for Malaysia, the benefit is not availed by responding producer/exporter. The respondent paid electricity rates as per the prevailing rates in case of purchase and those prices are not subsidized prices. The utility consumption exemption of the company is part of our cost records and we cannot relate our power price to what is being claimed here. Post disclosure stage is not the stage to collect information on Malaysian power tariffs.
- lxv. For Program No. 3 for Vietnam, there is no law which mandated availment of programs in any case. There is no countervailable benefit provided under Program No. 3 for Vietnam. The import duty payable was NIL and hence no revenue is forgone under the program. Benefit under FTAs should not be countervailed.
- lxvi. MDF VRG has not availed any benefit under Program No. 4 for Vietnam.
- lxvii. No benefit was availed by Kim Tin under Program No. 6 for Vietnam since full rents were paid. The margin for the program in the Disclosure Statement is higher than the company's claim.
- lxviii. No benefit was availed by the responding producers/exporters under Program No. 8. No benefit is provided under the program as interest rate for long-term loan is on par with prevailing interest rate in Vietnam and as per World Bank data. The interest rate for short-term loans is universally lower and no subsidy can be presumed. There exist no compensatory arrangements on interests.
- lxix. No countervailable benefit is provided under Program No. 8 & 10 for Vietnam. The Trade Policy Review of Vietnam to the WTO cannot be the legal basis for determining subsidy. The evidence submitted has no reference to local procurement.
- lxx. The DGTR has failed to establish existence of a financial contribution, government entrustment and specificity in the program.

- lxxi. Introduction of new claims and evidences on benchmark at the fag end of the investigation is a violation of due process by the petitioners.
- lxxii. The respondents were never intimated that the new subsidy allegations were being investigated and hence, is a violation of due process. The same violates Rule 7(4) of the CVD Rules and Article 12.1 of the ASCM. Panel Reports in US – Anti-dumping and countervailing duties (China) and China – Broiler Products (Article 21.5 – US) are relied on.
- lxxiii. No information on these programs were sought during verification and no opportunity was given to rebut the allegations. The allegations are vague, unclear and unsubstantiated. No evidences were provided.
- lxxiv. The governments of the subject countries were not consulted regarding the new subsidy allegations which is a violation of Article 9 of the ASCM.
- lxxv. Written submissions cannot be used to introduce new claims.
- lxxvi. The respondents have not availed any such subsidy and hence, did not include them in their questionnaire responses.
- lxxvii. No reason has been provided for choosing New Zealand as the appropriate benchmark. The Authority is required to reason the choice of benchmark in lines with the Appellate Body report in US – Carbon Steel (India). The respondent is not using timber as their input for producing subject goods. Timber prices cannot be used as a benchmark for Rubber Wood/Rubber Wood Waste. The Government of New Zealand controls all of the harvested forest and export price of wood from New Zealand to India are not determined as per market forces. New Zealand wood prices cannot be compared to rubber wood since non forestry and forestry wood are different. MDF manufacturers also use waste from saw mills. Rubber wood is hardwood species while New Zealand pine etc. is softwood species. The petitioner is trying to compare the incomparable.
- lxxviii. Usage of Indian rubberwood prices will not be an appropriate benchmark as prices are high due to scarcity. The benchmark price should be adjusted taking into account that the respondent has only used waste and/or residue of rubber wood. Log prices from NZ or another appropriate country to Thailand would have been the appropriate benchmark for Thailand.
- lxxix. The alternative benchmarks suggested by the domestic industry are inadequate. The benchmark should be on the lines of prevailing market conditions of the exporting country and not based on price of raw materials in any third country.
- lxxx. Treatment of the respondents as non-cooperative and applying facts available is in contravention to CVD Rules and the ASCM. Such treatment can be given only if a party refuses to provide information which was not the case in the present case.
- lxxxi. For the benchmark relied on by the domestic industry for alleged electricity subsidies, not even the period for which the prices pertain to is not clear.
- lxxxii. The domestic industry's reliance on the Supreme Court decision in Designated Authority v. Holdor Topsoe is erroneous as it states that the obligation to provide information applies only if the party is in possession of the evidence. When a program is not availed, there is no information to be disclosed.
- lxxxiii. There is no justification for not providing the calculation of subsidy margin and the basis for the same as they are based on the information provided by the

company. The SC decisions in *Sterlite Industries v. Designated Authority* and *Reliance Industries v. Designated Authority* are relied on.

Examination by the Authority

41. As regards the contention of the other interested parties regarding investigation of new/additional subsidy schemes discovered during the course of investigation, it is noted that the original questionnaire specifically contained a detailed annexure with respect to 'other subsidy schemes' and it was also instructed that "for each program, even if some of them are not listed by the applicant but are existing in the subject country, the responding party should respond fully to the questions, even if Government of subject country believes that the program is not countervailable". The same was reiterated in the additional questionnaire that was sent to the interested parties with respect to the alleged additional/new subsidy schemes. Therefore, the Authority has followed the due process and the interested parties were given ample opportunities to submit the requisite information.
42. There may be occasions when the Authority finds some additional subsidy schemes in the subject country(ies), though not specifically mentioned in the initiation notification. The obligation of the responding governments and exporters/producers of subject countries was to equip the Authority with requisite information on all schemes existing in the subject countries concerned with the present investigation which could have led the Authority to reach a fair conclusion especially when the said information was solicited through original questionnaire in the form of Provision of Goods and Services specifically mentioning that *"for each program, even if some of them are not listed by the applicant but are existing in the subject country, you should respond fully to the questions, even if Government of subject country believes that the program is not countervailable."* And *"in the absence of a complete response, a decision will be based on the best information available."* However, instead of providing information, the interested parties found it convenient to shift the burden on the Authority. In such a scenario, the Authority had to move with the best information available and accordingly compute the relevant subsidy margins for LTAR programmes in form of wood, land, water, coal, power, etc. existing in the respective countries.
43. With regard to the alternative benchmarks proposed by the interested parties, the Authority notes as follows.
- a) Considering export prices from the subject countries as benchmarks will not be appropriate as the same are also equally distorted as the domestic price is due to government control as examined in the relevant paragraphs below.
 - b) The prices of rubberwood provided by private parties in Indonesia could not be adopted, for the reason that the same also suffers from the similar distortion as is found in respect of other suppliers. The Authority has determined that the domestic forestry market in Indonesia is distorted.
 - c) The prices of rubberwood in India as a benchmark were not considered appropriate. The availability of this type of wood in India is limited and the resultant price is high.
 - d) International prices for wood/timber/log are not adopted since the benchmark should reflect the prices of the type of wood used by the responding producers.

44. New Zealand has significant forest and also exports significant volumes of wood across the globe. 95% of the exotic forestry plantations in New Zealand are privately owned and export controls are minimal. The license fee charged for harvesting in Crown forest land is as per market rate. Further, the price at which NZ has exported wood is found reasonable when compared with other options available. New Zealand is thus considered an appropriate benchmark for quantifying benefits in log/timber/wood available to foreign producers at LTAR as per Article 14(d) of the ASCM.

Calculation Methodology

45. Article 14 of ASCM, provides guidelines and methodology for calculating the benefit to the recipient conferred pursuant to paragraph 1 of Article 1 and further provides that any method used by the investigating authority to calculate the benefit to the recipient shall be transparent and adequately explained. Further, any method used by the investigating authority to calculate the benefit to the recipient shall be provided for in their national legislation or implementing regulations of the Member concerned and its application to each particular case shall be transparent and adequately explained. In accordance with the requirement, the Customs Tariff (Identification, Assessment and Collection of Countervailing Duty on Subsidized Articles and for Determination of Injury) Rules, 1995 lays down the methodology of determination of quantum of subsidization. The determination in this investigation is in accordance with these guidelines.

G.3.Examination of the Subsidy programs alleged by the Petitioners

Indonesia

(i) Program No. 1: Provision of Standing Timber for Less Than Adequate Remuneration

Submissions by the Petitioners

46. The petitioners submitted that the said program is administered by the Ministry of Finance. The Government of Indonesia controls nearly all (88%) the harvestable forest land and leases logging rights to companies on which a stumpage rate is levied for the right to harvest wood. The stumpage rate charged by the Government of Indonesia is far less than the value of the stumpage.

47. Further, the term "timber" is not limited to any specific type of wood. Tropical wood such as rubber wood falls within the scope of the term. All kinds of wood are nothing but timber. The interested parties are incorrectly projecting that timber means only Hardwood or wood directly going for making furniture. In fact, rubberwood is the best alternate for timber appliances due to environmental concerns. The production of product from fiber or paper is completely ruled out.

48. Though the raw material, i.e., wood/logs might be purchased from private plantations, the level of government intervention leaves the entire timber market in Indonesia distorted. Purchasing the timber from the private entities does not establish that there is no subsidy therein. Though the Government of Indonesia as well as the responding producers/exporters have stated that they rely on private plantations for sourcing their raw materials, the dominant role played by the Government in the logging industry through this program artificially lowers the prices. Prices of private plantation are also subsidized when majority sale is by Govt. owned/controlled parties. The reliance upon the analysis made by USDOC in the matter of 'Coated Free Sheet Paper from Indonesia' & 'Certain Uncoated Paper from Indonesia' is appropriate.
49. Because of the conditions of the Indonesian timber market, it is nearly impossible for the responding exporters not to have availed the program. The price in the entire market is bound to be distorted in a situation where majority of sellers are govt. owned or controlled and these so labelled private parties are minority suppliers of these inputs. Such being the case, the only option is to rely on outside country benchmark or international benchmark.
50. The same was found by several other investigative authorities through anti-subsidy investigations. Hence, raw material for the fiberboard industry is provided at less than adequate remuneration (LTAR). The program provides a financial contribution in the form of goods at LTAR and a benefit is thereby conferred. The program is specific because the benefit under the program is only made available to the downstream industries that use timber/wood as its raw material.

Submissions by Government of Indonesia/other interested parties

51. The Government of Indonesia submitted that the standing timber policy does not provide any financial contribution or benefit to the responding companies in any form and hence, not countervailable under the ASCM. The standing timber fee is only applicable to government owned land and not to private plantations from which the respondent companies sourced their raw materials.
52. The exporters are using left over/waste etc. harvested from private plantations and not timber. They use leftover waste rubberwood is used in fiberboard in Indonesia. Hence, program is not applicable. None of the cases referred by the Applicant relates to MDF. Timber is not used in MDF due to high cost. The exporters procure RM (rubber wood) grown only on private plantations instead of state forest.
53. As per the Forest act the standing timber policy does not provide any financial contribution or benefit to the responding companies in any form and hence, not countervailable under the ASCM. The standing timber fee is only applicable to government owned land and not to private plantations from which the respondent companies sourced their raw materials.
54. The exporters submitted that they do not use timber wood or any other product related. The program pertains only to "standing timber" or "timber wood". The responding party has purchased Rubber Wood/ Rubber Wood waste from private plantations which has been

recognized by the Authority in the disclosure statement and hence the scheme will not be applicable.

55. The Ministry of Environment and Forestry through Minister Regulation no 66/MenLHK/Setjen/KumI/10/2019 mandates the forest license holder to record and report wood product harvested from natural forest. Imports of forestry products are regulated by Minister of Trade Regulation number 82/2019, Minister of Trade Regulation 97/2015 read together with Minister of Trade Regulation 91/2017 read together with Minister of Trade Regulation 13/2018. Import's forestry products, one must obtain import declaration consisting of SVLK certificate, sustainability, and the legality of the product. Consumption from Non-State Forest is provided through SVLK certification and Land deed, which are provided by the Companies.
56. There is no provision for rubberwood waste/residue as input to produce fiberboard for the producers under investigation. List of the suppliers are not maintained by GOI. Further list can be obtained from the cooperating producers who dealt with the suppliers. Rubberwood waste prices are determined between rubberwood waste collector/seller/buyer and hence, it is a business-to-business transaction. The GOI is not involved in the determination process. The price of rubber woods waste depends on the negotiation between the seller and the buyer. Pricing information is not regulated by GOI, hence responding exporters can only provide information regarding to their own negotiated or transacted prices with private suppliers.
57. GOI does not provide the said goods/services and, therefore, the question of comparable prices does not arise.

(ii) Program No. 2: Government Prohibition of Log Exports

Submissions by the Petitioners

58. The petitioners submitted that the said program is administered by the Ministry of Finance and the Ministry of Industry and Trade. The two Ministries jointly issued a decree that banned export of logs from Indonesia. This distorts the domestic market and makes wood, which is a raw material in the fiberboard industry, available to downstream industries at LTAR. The program provides a financial contribution in the form of goods at LTAR and a benefit is thereby conferred. The program is specific because the benefit under the program is only made available to the downstream industries that use timber/wood as its raw material.

Submissions by Government of Indonesia/other interested parties

59. The Government of Indonesia submitted that the provisions on export of forest industrial products are applied to deter and control over-harvest and illegal logging as means to protect and sustain Indonesian forests. Moreover, export ban does not constitute a financial contribution as held by the WTO Panel in US-Export Restraints (DS 194). Further, the responding exporters sourced their raw materials from private plantations.
60. The exporters are using left over/waste etc. harvested from private plantations and not timber. Hence, program is not applicable. None of the cases refereed by the Applicant relates to MDF.

Timber is not used in MDF due to high cost. Indonesia is a forest rich country and left-over logs, waste etc. are available in abundance. The purpose of the export ban was to control illegal logging, preserve the resources and protect environment and not to collect stumpage fees. No evidence has been produced to show market distortion.

Examination by the Authority

61. The Authority notes that program no. 1 & 2 relates to the series of the measure taken by Government of Indonesia to regulate, monitor and control forestry sector in Indonesia. Since effect of these programs results in raw material of PUC being provided at less than adequate remuneration, the Authority has combined these programs and examined them collectively for the purpose of present investigation.
62. The Authority notes that the Government of Indonesia owns majority of the harvestable forest land in the country and has a predominant role in the market for standing timber. As per Regulation No. 09/M-DAG/PER/2/2012, the standard price for wood is periodically determined by the government. Various regulations on record outline the types of fees and royalties assessed for the harvest of standing timber in Indonesia. Companies are, however, granted logging rights to collect timber from these forests. The Government, in return, collects two kinds of stumpage fees; namely Provisi Sumberdaya Hutan (provision for forestry resources – PSDH) and Dana Reboisasi (replanting fund – DR). The responding exporters have, however, mentioned that they have no obligation to pay stumpage fees as they are procuring raw material from the private planters.
63. As far as Government prohibition of log exports is concerned, the petitioners have alleged that the said program is administered by the Ministry of Finance and the Ministry of Industry and Trade. The two Ministries jointly issued a decree that banned export of logs from Indonesia. The Government and responding exporters have stated that the main reason of imposing export restriction is for conservation of environment and ecosystem so as to control illegal logging and preserve the resources. A ban on round (unprocessed) log exports was re-introduced in 2001, ostensibly to address the problem of over-exploitation.
64. The submissions made by GOI proves that the Indonesian wood product is harvested from natural forests. Various regulations of the GOI suggest that forests are under the control of the state. Also, the Indonesian government has instituted policy measures to discourage or ban log exports. The aim has been to encourage processing industry within Indonesia.
65. The Authority notes that while, such bans (and other export restrictions) may somewhat curtail over-exploitation of Indonesia's forests these measures also depress the domestic prices of logs, thereby assisting downstream processors of such products which leads to subsidization.
66. The Authority further notes that measures undertaken by the Government of Indonesia through the imposition of export prohibition on logs amounts to entrusting/directing domestic forestry/harvesting companies including private entities to provide low priced inputs (logs/wood) to companies in the downstream industries. Specifically, the log export ban allowed the companies under investigation to purchase inputs (log/wood) from forestry/harvesting companies below market prices. The ban which has induced log suppliers

to sell logs domestically at suppressed prices has benefited Indonesia's downstream wood processing industries and reduced the price of logs.

67. The programs provide a financial contribution in the form of goods at less than adequate remuneration and a benefit is thereby conferred. The programs are also specific since they benefit those downstream industries that use logs/wood as their primary raw material. Hence, the programs are *de facto* available only to a limited number of industries. Therefore, the Authority holds the above two programs as countervailable.
68. Though the applicant has stated that the usage of export of logs from New Zealand to India is an appropriate benchmark. However they have also suggested alternate benchmarks such as (a) Export price of similar type of wood used by the responding exporters in the subject country, (b) The highest/average cost of raw material (wood) by the domestic industry together with their consumption norms, (c) International prices for wood/timber/log available from World Trade Atlas or (d) Prices of wood/timber/log from major exporters of the subject goods to India apart from the subject countries which include Brazil and South Africa.
69. The responding exporters have contended that they are using leftover/residue of rubberwood and have suggested to consider prices of rubber wood in India and the estimated price of the waste/residue wood on the basis of the ratio of the price of the waste/residue and the price of fresh logs. Responding exporters have submitted that the same ratio may be applied to the Indian rubber wood prices to arrive at a fair market value of the waste/residue of rubber wood.
70. The Authority notes that the leftover/residues are woods that are mainly obtained from old age rubber tree, which is no more capable of producing latex, debarked and used in production of MDF. Such rubberwood is not of any use in rubber industry but can be used in Fiberboard industry. Hence the prices of such waste/residue/leftover rubberwood are lower compared to rubberwood logs. With regard to the submission by responding exporters/producers from Indonesia that they are using rubberwood waste/residue, the Authority notes that it has taken due cognizance of this fact and has considered the estimated price of the logs on the basis of the ratio of the prices of the waste/residue to the prices of fresh logs. This was then compared with the benchmark adopted by the Authority.
71. To determine the quantum of the subsidy margin, the Authority looked for the appropriate benchmark whereby it was found that New Zealand is one of the largest exporters of logs globally. The Authority considered exports price of log from New Zealand as a more appropriate benchmark as compared to import price from New Zealand. Considering the appropriate conversion rates, the subsidy margin determined has been provided in the table below.

(iii) Program No. 3: Benefits for Export Facilitation by Indonesia EXIM Bank

Submissions by the Petitioners

72. The petitioners submitted that the said program is administered by the AsuransiEkspor Indonesia (ASEI) and the Indonesia EXIM Bank. Under the program, the Government of Indonesia through their state-owned banks, ASEI and the Indonesia EXIM Bank provide

export credit guarantees that permit banks to lower the rates charged for export financing. The program provides a financial contribution that is the difference between the lower lending rates and the normal lending rates available to exporters while availing export credit guarantees. Thus, the program provides a financial contribution in the form of revenue forgone that is otherwise due and a benefit is thereby conferred. The program is specific because only those enterprises are eligible that are engaged in exports. Since the program is contingent on exports, it is deemed specific. The Authority had previously found export facilitation by the EXIM bank countervailable in CVD investigations on “Continuous Cast Copper Wire Rods” from Indonesia, Malaysia, Thailand, and Vietnam, “Textured Tempered Glass” from Malaysia, “Clear Float Glass” from Malaysia, and “Flat Products of Stainless Steel” from Indonesia. Non-availment of a program does not make it non-countervailable.

73. Further, preferential lending is practiced within the nation by the banks located in the territory of the country irrespective of whether the lending is in local currency or foreign currency. The lending interest rate depends upon the credit rating of the company whereby the lending bodies exercise discretion and provide preferential loans. If compared with the prescribed lending rates for the country by the international authorities such as IMF or World bank, the lending interest rates are always at the lower side. Also, the central bank of the countries has higher benchmark which can be seen at the website of the banks whereas the actual lending rates are far below than that.
74. The program was previously examined by the Authority in the Final Findings of anti-subsidy investigation on imports of “Continuous Cast Copper Wire Rods” from Indonesia, Malaysia, Thailand, and Vietnam and found countervailable.

Submissions by Government of Indonesia/other interested parties

75. The Government of Indonesia submitted that the Indonesia Exim bank is a special financial institution 100% owned by the government and operates independently under the Act No. 2/2009. As per Article 7 of the Act, it is one of the key activities of the bank to provide guarantees to Indonesia exporters, overseas importers and tenders related to project performance. It provides financing in the form of working capital and/or investment. There is no law or regulation governing the eligibility criteria. Eligibility is an internal procedural matter of the bank. Moreover, over the course of 2017-18, the EXIM Bank and Bank Mandiri have not provided interest rates below the Central Bank rate.
76. It has been submitted that the program is not applicable since no loans are taken from EXIM Bank. The claim can be cross checked with loan information in the audit reports. Further, export facilitation by the EXIM bank was previously held non-countervailable by the Authority.
77. The interested parties have also submitted that PT. Bank Negara Indonesia (BNI) is a financial institution that operates based on profit and it independently provides loans to customers with interest at the prevailing market rate which is above the Bank of Indonesia's rate (central bank).

78. As per the disclosure statement the Authority claimed that BNI is a public body merely because the GOI holds a 60% share in the bank as of 2019. As per WTO AB Findings - Anti-Dumping and Countervailing Duties (China) “mere ownership or control does not constitute public body”. GOI stated that none of the responding producers/exporters has received any benefit.
79. Without prejudice to the above that loan taken from BNI bank cannot be considered as subsidy, it is submitted that MPI has taken all loans at market determined commercial rates. It may be noted that the respondent had taken loans both in local as well foreign currencies at market determined commercial rates. Even if the Indonesian Bank is considered to be a “Public Body”, the benchmarks considered have to be only for the currencies in which the loans have been taken. Since a substantial part of the loans by the respondent is USD denominated, the rate applicable for the local currency loans cannot be applied. It may also be noted that the interest rate for foreign currency loans is totally comparable to the interest rate paid by other respondent for loans taken from a foreign bank. Thus, applying the local currency interest rate even to the foreign currency loans, is completely ill-conceived and erroneous.

Examination by the Authority

80. It is noted that the program is administered by the Ministry of Finance as per the Decree of the Republic of Indonesia no. 366/KMK.06/2009 and the Act No. 2/2009. The bank is wholly owned by Government of Indonesia and exercises Government Authority. Its main objective is to support the Indonesian exporters. Domestic financing services are provided in the form of working capital and/or investment facilities.
81. It is noted that no loans have been procured from Exim Bank by the responding producers/exporters as has been submitted by them in their questionnaire response.
82. The responding exporters have clarified in their submissions that the benchmarks considered for the interest rates have to be only for the currencies in which the loans have been taken.
83. The Authority notes with regard to the loans taken from other banks by both the responding exporters/producers that Pt. Sumatera has taken foreign currency denominated loans from Pt. Bank Negara Indonesia (BNI) as well as from a foreign bank situated in Singapore. While comparing the interest rate of long-term foreign currency loans charged by the bank in Singapore with that of BNI, it is seen that both the interest rates are at par and comparable. As far as local currency loans procured by both the responding exporters from BNI are concerned, it is seen that the interest rate charged by the BNI for both the responding exporters for short term and long-term loan in local currency is comparable to the benchmark adopted by the Authority in its earlier disclosure statement.
84. In view of the aforementioned, no element of subsidy is found for the loans taken from the Indonesian and other banks by both the responding exporters/producers.
85. Therefore, the Authority notes that no countervailing duty should be imposed under this program.

(iv) Program No. 4: Reduction of Income Tax

Submissions by the Petitioners

86. The petitioners submitted that the said program is administered by the Government of Indonesia. The Law of the Republic of Indonesia No. 25 of 2007 concerning Investments provides incentives for investments in a variety of forms including reduction of net income to a specified extent of the total investments made within a definite period. Thus, the program provides a financial contribution in the form of revenue forgone that is otherwise due and a benefit is thereby conferred. Article 18 of the Law No. 25 of 2007 provides several eligibility criteria and satisfaction of at least one of them is essential to avail the benefit. The program is, hence, specific because only those enterprises are eligible that meet the eligibility criteria.

Submissions by Government of Indonesia/other interested parties

87. The Government of Indonesia submitted that the corporate income tax reduction facility in tax holiday shall be granted to income received or accrued from main business activity which constitutes a Pioneer Industry. A "Pioneer Industry" is defined as an industry "with extensive interconnection that provided added value and high externality, introduces new technology, and has strategic value for national economy. The Tax Holiday is eligible for pioneer industry status which covers 18 sectors. However, the list is not exhaustive. The program opens the opportunity for other sectors other than currently stipulated in the program upon the approval of the Minister of Finance. Initially, the corporate income tax reduction of 10% to 100% over a period of five to fifteen years was provided. In April 2018 it was amended to provide 100% reduction for five to twenty years. It was further amended in November 2018 to provide 50% to 100% reduction depending on the total investment value.

88. It has been submitted that the program is not applicable since no benefit from reduced income tax was availed. The same can be cross checked with the audit reports.

Examination by the Authority

89. It is noted that the program is administered by the Government of Indonesia. As per Article 18 of the Law of the Republic of Indonesia No. 25 of 2007, a reduction on corporate income tax to the extent of 50% to 100% for a period of five to fifteen years is provided to a "Pioneer Industry" depending on the total investment value. The program covers the forestry sector as per Peraturan Menteri Keuangan Republik Indonesia Nomor 150/Pmk.010/201. The program provides a financial contribution in the form of revenue forgone that is otherwise due and a benefit is thereby conferred. It is specific since the benefit is provided only to enterprises that qualified as a "Pioneer Industry". Therefore, Authority holds this program as countervailable program.

90. However, the Authority notes that there is no evidence on record to show that the responding producers/exporters have made any qualifying investment to avail the benefit under the program. Nor the Government of Indonesia has provided any information on the companies'

eligibility as "Pioneer Industry". Therefore, it is noted that no countervailing duty should be imposed against the responding exporters/producers under this program.

(v) Program No. 5: Exemption of Import Duty

Submissions by the Petitioners

91. The petitioners submitted that the said program is administered by the Government of Indonesia. The Law of the Republic of Indonesia No. 25 of 2007 concerning Investments provides incentives for investments in a variety of forms including exemptions or relief on import duty on capital goods, machines, or equipment not yet produced at home. Thus, the program provides a financial contribution in the form of revenue forgone that is otherwise due and a benefit is thereby conferred. Article 18 of the Law No. 25 of 2007 provides several eligibility criteria and satisfaction of at least one of them is essential to avail the benefit. The program is, hence, specific because only those enterprises are eligible that meet the eligibility criteria.
92. The program was previously examined by the Authority in the Final Findings of anti-subsidy investigation on imports of "Continuous Cast Copper Wire Rods" from Indonesia, Malaysia, Thailand, and Vietnam and found countervailable.

Submissions by Government of Indonesia/other interested parties

93. The Government of Indonesia submitted that the "Masterlist program" is an investment facility granted in the form of import duty reduction and VAT exemption for import of capital goods in form of machineries and factory equipment. The reduction in import duty is granted under Ministry of Finance Decision No. 135/KMK.05/2000. It is granted to new investments or expansion of existing investments. The BKPM is the supervising agency for the program and reviews and approves applications for the program. The Authority had previously found the program to be not countervailable.
94. It has been submitted that VAT exemption is not countervailable as per anti-subsidy rules and the similar view has been taken by the Authority in the anti-subsidy investigation of copper.

Examination by the Authority

95. It is noted that the program is part of the "Masterlist program" that provides an import duty reduction and VAT exemption (dealt with in Program No. 7) levied on imports of capital goods in form of machineries and factory equipment. The program provides a financial contribution in the form of revenue forgone that is otherwise due and a benefit is thereby conferred. The benefit is provided subject to the satisfaction of criteria enlisted under Article 18 of the Law No. 25 of 2007. While the Government of Indonesia stated that only one of the companies under investigation has availed the benefit under the said program, both the responding exporters, however, have accepted availing the benefits under the program in their exporter's questionnaire response. The program is specific since only those enterprises are

granted the benefit that meets the eligibility criteria prescribed. Hence, the Authority holds this program as countervailable.

96. Accordingly, it is noted that countervailing duty should be imposed against both the responding producers/exporters under this program.

(vi) Program No. 6: Exemption of Import Duty- Raw Materials

Submissions by the Petitioners

97. The petitioners submitted that the said program is administered by the Government of Indonesia. The Law of the Republic of Indonesia No. 25 of 2007 concerning Investments provides incentives for investments in a variety of forms including exemptions or relief on import duty of production raw materials or components for a definite period and with specified requirements. Thus, the program provides a financial contribution in the form of revenue forgone that is otherwise due and a benefit is thereby conferred. Article 18 of the Law No. 25 of 2007 provides a number of eligibility criteria and satisfaction of at least one of them is essential to avail the benefit. The program is, hence, specific because only those enterprises are eligible that meet the eligibility criteria.

98. The program was previously examined by the Authority in the Final Findings of anti-subsidy investigation on imports of "Continuous Cast Copper Wire Rods" from Indonesia, Malaysia, Thailand, and Vietnam and found countervailable.

Submissions by Government of Indonesia/other interested parties

99. The Government of Indonesia submitted that under the program, a reduction is provided on import duty levied on import of strategic goods, which among others include machineries and factory equipment to be installed and used for production by newly established industry and/or expansion of existing industry. The proposals are to be approved by the BKPM. The eligibility criterion is the BKPM Decree issued on behalf of the Minister of Finance.

Examination by the Authority

100. It is noted that under this program, a reduction in import duty granted on the duty levied on import of raw material employed in new investments. There is a strict surveillance mechanism put in place by DG Customs to ensure that the program is not misused, and adequate penalty is put in place in case of violations. The program provides for financial contribution in the form of revenue foregone and benefit is thereby conferred. The program is also specific because it is provided to only those companies that meet the strict eligibility criteria as per the BKPM Decree. The Authority, therefore, holds this program as countervailable.

101. The responding producers/exporters submitted in their Questionnaire Responses that they have not availed the benefit under the program since all raw materials were procured domestically. They have further submitted that they procure their primary raw material, i.e., wood, from private plantations. The Authority also notes that there is no evidence on record

to show that the responding producers/exporters have imported their raw materials to avail the benefit under the program. Hence, it is noted that no countervailing duty should be imposed against responding producers/exporters under this program.

(vii) Program No. 7: Exemption of VAT

Submissions by the Petitioners

102. The petitioners submitted that the said program is administered by the Government of Indonesia. The Law of the Republic of Indonesia No. 25 of 2007 concerning Investments provides incentives for investments in a variety of forms including exemptions or deferment of Value Added Tax for a definite period on import of production capital goods or machines or equipment not yet produced at home for the purpose of production of exported products. Thus, the program provides a financial contribution in the form of revenue forgone that is otherwise due and a benefit is thereby conferred. Article 18 of the Law No. 25 of 2007 provides several eligibility criteria and satisfaction of at least one of them is essential to avail the benefit. The program is specific because it is contingent on exports and hence, prohibited.
103. The program was previously examined by the Authority in the Final Findings of anti-subsidy investigation on imports of "Continuous Cast Copper Wire Rods" from Indonesia, Malaysia, Thailand, and Vietnam and found countervailable. The program is also not a permissible duty remission under footnote 1 of the ASCM and section 9B(b) of the Custom Tariffs Act.

Submissions by Government of Indonesia/other interested parties

104. The Government of Indonesia submitted that the "Masterlist program" is an investment facility granted in the form of import duty reduction and VAT exemption for import of capital goods in form of machineries and factory equipment. It is granted to new investments or expansion of existing investments. The BKPM is the supervising agency for the program and reviews and approves applications for the program. The program is neither specific nor confer any benefit to the Indonesian producers of the PUC. The Authority had previously found the program to be not countervailable.
105. It has been submitted that VAT exemption is not countervailable as per Anti-subsidy rules and the similar view has been taken by the Authority in the Anti-subsidy investigation of copper.
106. It has been further submitted by the responding exporters that VAT exemption on capital goods does not constitute a subsidy under the Anti-subsidy Rules, 1995 on account of the facts that VAT exemption is neither revenue forgone nor contingent upon export performance. Moreover, it is not specific to the MDF industry but is available to all industries across sectors. Therefore, it is not specific in terms of Article 2 of the Agreement on Subsidies and Countervailing Measures (ASCM). It is submitted that only the exemption or remission, in respect of the production and distribution of exported products, of indirect taxes in excess of those levied in respect of the production and distribution of like products when sold for

domestic consumption is an export subsidy in terms of para (g) of Annex I (Illustrative List of Export Subsidies) of ASCM. Therefore, it is clear without any doubt that VAT exemption is not a countervailable subsidy under the ASCM. VAT is creditable indirect tax. The Authority has also taken the view that VAT is not countervailable subsidy in the recent anti-subsidy investigation of “Continuous Cast Copper Wire Rods” from Indonesia, Malaysia, Thailand and Vietnam dated 05 November, 2019.

Examination by the Authority

107. Authority notes that this subsidy program provides for exemption from value added tax on export of goods. The Authority notes that the subsidy program provides for remission of tax on exported goods which is otherwise borne by the like product when destined for domestic consumption in accordance with footnote 1 of the SCM Agreement and Section 9B(b)(i) of the Customs Tariff Act. Therefore, Authority holds that no countervailing duty should be imposed against this subsidy program.

(viii) Program No. 8: Accelerated Depreciation or Amortization

Submissions by the Petitioners

108. The petitioners submitted that the said program is administered by the Government of Indonesia. The Law of the Republic of Indonesia No. 25 of 2007 concerning Investments provides incentives for investments in a variety of forms including accelerated depreciation or amortization and resultantly a lower income tax liability. Thus, the program provides a financial contribution in the form of revenue forgone that is otherwise due and a benefit is thereby conferred. Article 18 of the Law No. 25 of 2007 provides several eligibility criteria and satisfaction of at least one of them is essential to avail the benefit. The program is, hence, specific because only those enterprises are eligible that meet the eligibility criteria.

Submissions by Government of Indonesia/other interested parties

109. The Government of Indonesia submitted that the program intends to stimulate investment in certain business fields and /or certain regions. Government Regulation No. 18/2015, amended by Government Regulation No. 9/2016, grants companies in 77 listed industries (1) 30% (5% per year for first six years of business' operation) tax deduction for investment in the form of tangible assets, (2) accelerated depreciation and amortization, (3) lowered tax rate on dividend distributions to non-residential taxpayers, and (4) loss compensation.

110. It has been submitted that this program is not applicable since no benefit was availed by the exporters. The claim can be verified from the audit reports.

Examination by the Authority

111. The Authority notes that the program is granted under the Government Regulation No. 18/2015 which was later amended by amended by Government Regulation No. 9/2016. The program provides a financial contribution in the form of revenue forgone that is otherwise due

and a benefit is thereby conferred. The benefit provided under the regulation is available only to 77 listed industries (1) 30% (5% per year for first six years of business' operation) tax deduction for investment in the form of tangible assets, (2) accelerated depreciation and amortization, (3) lowered tax rate on dividend distributions to non-residential taxpayers, and (4) loss compensation. However, the producers of the subject goods are not enlisted under the 77 eligible industries. Hence, no benefit is provided to the companies under investigation under this program. Therefore, it is noted that no countervailing duty should be imposed under this program.

(ix) Program No. 9: Relief from Land and Building Tax

Submissions by the Petitioners

112. The petitioners submitted that the said program is administered by the Government of Indonesia. The Law of the Republic of Indonesia No. 25 of 2007 concerning Investments provides incentives for investments in a variety of forms including relief on Land and Buildings Tax, particularly for specified business sectors in specified regions or areas or zones. Thus, the program provides a financial contribution in the form of revenue forgone that is otherwise due and a benefit is thereby conferred. Article 18 of the Law No. 25 of 2007 provides several eligibility criteria and satisfaction of at least one of them is essential to avail the benefit. The program is, hence, specific because only those enterprises are eligible that meet the eligibility criteria.

Submissions by Government of Indonesia/other interested parties

113. The Government of Indonesia submitted that the program is available to Special Economic Zones established through Act No. 39/2009 and allows companies located and operating main business in such areas to obtain wide range of facilities and incentives from taxation to employment. There are 13 such zones designated in Indonesia. As per the Government Regulation No. 96/2015, the regional governments may determine a reduction or exemption of regional tax, which includes the Land and Building Tax, or retribution from 50% and 100%.

114. It has been submitted that this program is not applicable since no benefit was availed by the exporters. The claim can be verified from the audit reports.

Examination by the Authority

115. It is noted that the program provides exemption or reduction from Land and Building Tax to those enterprises which are located in 13 Special Economic Zones as designated by Government of Indonesia. As per the Government Regulation No. 96/2015, the regional governments may determine a reduction or exemption of regional tax, which includes the Land and Building Tax, or retribution from 50% and 100%. The program provides a financial contribution in the form of revenue forgone that is otherwise due and a benefit is thereby conferred. Hence, the program is specific as it is geographical specific and limited to certain

enterprises which are located in 13 SEZ zones. Therefore, Authority holds this program as countervailable.

116. However, since none of the responding producers/exporters is located in any of the Special Economic Zones in Indonesia, they are not eligible to avail the benefit under the program. Hence, it is noted that no countervailing duty should be imposed against the responding producers/exporters under this program.

(x) Program No. 10: Exemption of Import Income Tax Article 22

Submissions by the Petitioners

117. The Government of Indonesia had stated in their Government Questionnaire Response that Mukti Panel had availed the benefit under the program. Though the producer claims that the Government had later clarified that the producer had not availed the program, a copy of the letter regarding the same was not provided to the Domestic Industry. Later on, the copy of the letter was served through a Paper-book circulated for the purpose of second oral hearing. The Authority is requested to verify the claim made by the producer and the authenticity of the letter submitted.

Submissions by Government of Indonesia/other interested parties

118. The Government of Indonesia submitted that the program is administered by the Directorate General of Taxation under the Ministry of Finance. Under the Regulation No. 1/PJ/2011, an exemption on final income tax and import income tax is granted to taxpayers who (1) facing fiscal loss due to certain causes such as a) new taxpayer is in investment phase; b) the taxpayer is not in commercial operation; c) Force majeure, (2) eligible for fiscal loss compensation, and 3) the amount of paid income tax is greater than the payable income tax may apply for the program. All eligible taxpayers have to submit an application seeking an exemption and if approved, would apply for final income tax at 10% or income import tax at 2.5% rate and for the given tax year. The program is available to all sectors or regions and hence in compliance with the ASCM.
119. It has been submitted that this program is not applicable since no benefit construed as countervailable as per the anti-subsidy rules has been availed under this program. Complete details of imports and tax payable and paid have been provided. Mukti Panel has provided complete details of the taxes paid. The exemption of import income tax for import materials and capital goods does not confer a countervailable benefit since it is merely an instalment of annual income tax. No benefit is provided from exemption of import income tax since annual income tax is required to be paid.
120. Further, GOI clarified that as per the evidence submitted, PT. Mukti Panel Industry (MPI) was not exempted from paying 2.5% import income tax and hence no benefit has been received by them during the POI.

Examination by the Authority

121. It is noted that the program is administered by the Directorate General of Taxation under the Ministry of Finance. Under the program, an exemption is granted on income tax subject to eligibility criteria prescribed under Regulation No. 1/PJ/2011. Even when a company meets them, the benefit is provided subject to approval. The program provides a financial contribution in the form of revenue forgone that is otherwise due and a benefit is thereby conferred. The program is specific since the enterprises eligible for the benefit under the program is limited through various eligibility criteria and further on the approval of the administering body. In view of the above, the Authority holds the program countervailable.
122. The Government of Indonesia has disclosed that Mukti Panel has not availed the benefit under the program. The other responding exporter has also stated that they have not received any benefit and Authority has not found any evidence on record to show that the responding exporters have received any incentives under the said scheme.
123. Therefore, the Authority notes that no countervailing duty should be imposed against the responding exporters/producers under this program.

(xi) Program No. 11a: Provision for Land at Less Than Adequate Remuneration

Submissions by the Petitioners

124. The petitioners submitted that in Indonesia, the land for plantations is owned by the government which provides the rights to utilize the land to companies as concessional holders. If the concession holders do not perform their administrative requirements (e.g., ecological), the government can fine the concession holder and even revoke the concession. Thus, land is available to enterprises in Indonesia at less than adequate remuneration. There are two kinds of land involved – land for plantation which is subsumed in Program no. 1 & 2 and land for manufacturing units. The subsidy in the land for the plant/ manufacturing unit and not the forest land which needs to be quantified separately. The Authority has rightly analyzed the scheme whereby the manufacturing units have received land at subsidized rate and stated that Government of Indonesia provides land to companies on the levy of a concessional rate. The same is not regulated by any law or regulation and is based on the discretion of the government. However, the Authority has considered most conservative benchmark in considering Tangerang land prices.

Submissions by Government of Indonesia/other interested parties

125. The GOI and responding producers/exporters has stated that the Authority should reject the new alleged subsidies which were alleged at the time of written submissions. Further they stated that they have not benefit from the said programs. Factory land prices in Tangerang is not appropriate benchmark as the program pertains to forest land and Tangerang is located in a different island, i.e., Java.
126. Cooperating producers did not procure the factory land from GOI but they procured it from individual owners with full ownership rights. Indonesia National Land Agency (BPN) is the regulating authority which administers the legality of the land, not trade the land,

directly or indirectly.

127. The exporter has purchased the land from private parties. The exporter has purchased the land at market price on arm's length basis. Further, it is submitted that the exporter has not taken the land on lease.

Examination by the Authority

128. It is noted that the Government of Indonesia provides land for forests on the levy of a concessional rate. The Government of Indonesia controls nearly all (88%) the harvestable forest land and leases logging rights to companies levied for the right to harvest wood. The same is regulated by law or regulation and is based on the discretion of the government. The program provides a financial contribution in the form of provision for land for the forestry sector at less than adequate remuneration and a benefit is thereby conferred. The program is specific since the benefit is provided at the direction of the government and is not available to all. Therefore, it is noted that countervailing duty should be imposed against this program. The Authority notes that the benefit under the land for plantations is subsumed in program no 1 & 2. However, the provision of factory land at LTAR is not included in Program 1 & 2.
129. With regard to the industrial land, it is noted that the Constitution of the Republic of Indonesia, under Article 33, states that land shall be controlled by the state and exploited for the greatest benefit of the people. Law No. 5 of 1960 which was brought into force for the regulation of land in Indonesia, under Article 20, states that the right to ownership of land is limited to Indonesian citizens. The right to ownership of land is not generally provided to corporate bodies and is granted only on the discretion of the government subject to the conditions laid down. The expense incurred by the responding producers/exporters on land has been taken from the Audit Reports filed along with their questionnaire responses. The average land prices for the industrial areas in Tangerang has been taken as the appropriate benchmark for land prices considering its proximity to the factory establishments of the responding producers/exporters.

Program No. 11b: Provision for Electricity at Less Than Adequate Remuneration

Submissions by the Petitioners

130. Petitioner submits that electricity is heavily subsidized by the Ministry of Finance through Regulation No. 44 of 2017. This enables customers to purchase electricity from the government owned power general company, PT Perusahaan Listrik Negara (PLN), at less than adequate remuneration. The Government of Indonesia retains the right of exports of Coal and the domestic market obligations are required to be met for Coal. The domestic market obligation was set at 25% of the production in 2019. Thus, the coal producers/miners are forced to first provide coal to meet the domestic demand. Thus, the Government of Indonesia by means of export tax, export restrictions and by allowing existence of the legal acts requiring Coal producers to sell domestically in Indonesia is directing private entities to provide financial contribution to electricity generators in the form of Coal at less than adequate remuneration. The benchmark price settings for coal were also enacted in 2011 through

Minister of Energy and Mineral Resources No. 0617 W32[EM] 2011 on Coal Price which applied for coal purchased by for National Electric Company (PLN). Indonesian Government determines the capping of maximum selling price for coal. Selling price for coal for electricity is set at US\$ 70 per MT. Any company engaged in production of coal is required to sell such coal following the decree issued by GOI, irrespective of its legal status. Coal is being made available at a cheaper rate to the domestic producers of subject goods by putting a maximum price cap on coal for purpose of electricity generation. Hence the power purchased by the fibreboard producers is subsidised. Applicant relies upon the final findings issued by the Authority in the matter of anti-subsidy investigation concerning imports of "Flat Products of Stainless Steel" from Indonesia. The applicant submits that the Authority should quantify subsidy in electricity procured at less than adequate remuneration.

131. Further, as per Indonesia Constitution Article 33 (3) - The land, the waters and the natural riches contained therein shall be controlled by the State and exploited.

Submissions by Government of Indonesia/other interested parties

132. All industries are eligible for the electricity supplied by PLN because it is only major supplier to industries in Indonesia. The quantity and value of electricity provided to each respondent during the POI are recorded in the electricity bills maintained by PLN. Ministry of Energy and Mineral Resources (MEMR) Regulation 28/2016 electricity tariff is classified into 8 categories.
- (a) Small households/industry at low voltage, power at 450 VA – 14 kVA (I-1/TR);
 - (b) medium industry at low voltage, power above 14 kVA – 200 kVA (I-2/TR);
 - (c) medium industry at medium voltage, power above 200 kVA (I3/TM); and
 - (d) big industry at high voltage, power of 30000 kVA and above (I4/TT).
133. PLN is a commercial supplier of electricity apart from public sector and provides electricity as public service. Since it provides electricity to all sectors hence not specific as per WTO and ASCM. Tariff adjustment of electricity is published every three months and can be accessed through the official website. The responding companies are classified under the tariff group of the Medium scale industry at medium voltage, with the power of over 200 kVA (I-3/TM).
134. There is no restriction on the importation of electricity. Electricity tariffs are set by taking into account the customer's purchasing power as well as the installed power capacity of each customer group.
135. PT Bukit Asam is the state-owned company established on March 1, 1981, a Limited Company under the name of PT Bukit Asam (Persero) or widely known as PTBA. The company focus on coal mining, exploration, exploitation, purification and processing. Apart from PT Bukit Asam there are 700 private miners in the country who are free to carry out the said activities in Indonesia based on purely commercial principles. GOI does not intervene in the transaction of coals as it is fully dependent on the negotiation between the parties. PTBA is a 100% state-owned company. Private sectors are given licenses to conduct mining (Ijin Usaha Pertambangan – IUP). The GOI has control over PTBA, either directly through the Series A Dwi Warna shares, or indirectly through PT Inalum (Persero).

136. Total domestic consumption reached approximately 115 million tonnes in 2018 (20,61%) and 138 million tonnes in 2019 (22,40%). The GOI does not limit imports of Coal.
137. The price of coal depends on the calories and commercial terms agreed upon by the sellers and the buyers. This situation applies to both PT Bukit Asam and private coal producer.
138. The ceiling price fixed for the PT Bukit Asam is based on the formula of production cost plus margin which covers profit and risk of the mining company in the minimum amount of 15% and the maximum amount of 25% of total production cost. Therefore, it would be completely incorrect to assume that coal is made available to PLN at less than market value.
139. No evidence has been provided either by the applicants or by the Authority to show that the users are actually getting electricity at subsidized rates. The exporter reiterates that electricity is not provided to it at subsidized rates. In order to substantiate their claim in this context, the sample electricity invoices of the exporter during the POI along with English translation of December 2018 invoice have been submitted and a request has been made to the Authority not to recommend any subsidy under this program. As regards the unsubstantiated allegation that the coal is available to PLN at prices below the market rates, it is submitted that the said decree merely puts a ceiling on the price at which PLN shall procure coal. There is no compulsion that coal has to be necessarily supplied at this price. PLN is free to procure coal from thousands of private suppliers /miners in the country. It needs to be appreciated that PLN is a huge buyer of coal and is in a position to get coal at better prices. It has been further submitted by the responding exporters that even the ceiling price fixed for the PT Bukit Asam is based on the formula of production cost plus margin which covers profit and risk of the mining company in the minimum amount of 15% and the maximum amount of 25% of total production cost. Therefore, it would be completely incorrect to assume that coal is made available to PLN at less than market value.

Examination by the Authority

140. It is noted that electricity in Indonesia is produced from coal. The benchmark price setting for coal purchased by the National Electric Company (PLN) is fixed by the Minister of Energy and Mineral Resources No. 0617 K/32/MEM/2011. The Authority notes that the Government of Indonesia by means of export tax, export restrictions and by allowing existence of the legal acts requiring coal producers to sell domestically in Indonesia is directing government as well as private entities to provide coal at less than adequate remuneration to PLN. The coal producers/miners are forced to first provide coal to meet the domestic demand. Hence, coal is available to PLN at a rate below the market rates. The program is specific since the benefit of coal at cheaper rates is available to the only power supplier in Indonesia which ultimately makes it possible for PLN to provide electricity to consumers at a subsidized rate. The companies under investigation are beneficiaries of such electricity at cheap rates. The program provides a financial contribution in the form of provision for electricity at less than adequate remuneration and a benefit is thereby conferred. Therefore, it is noted that countervailing duty should be imposed against the responding exporters/producers under this program.

141. To determine the quantum of the subsidy margin, the Authority looked for the appropriate benchmark. The Authority has relied upon the prices provided as per the website of 'globalpetrolprices'. The actual electricity tariffs paid by the responding producers as per the additional questionnaire response has been considered to determine the subsidy margins. Considering the methodology above, the subsidy margin determined for the responding exporters has been provided in the table below.

PT. Mukti Panel Industries

142. PT Mukti Panel Industries is a producer/exporter of subject goods in Indonesia. Mukti Panel filed the questionnaire response and provided information regarding the subsidy programs availed by them.

143. Authority examined the response filed by Mukti Panel and upon examination requested further information from them and also verified the information provided in the response to the extent deemed necessary. Mukti Panel has disclosed in its questionnaire response that it has availed exemption on import duty. Additionally, the Authority determined that the subsidy programs resulting in provision for land, wood and electricity at LTAR were availed by Mukti Panel. As a result, benefit was conferred to Mukti Panel in the form of various subsidies.

144. Authority has verified the information provided by Mukti Panel and determined subsidy margin for programs for which benefit was received or accrued during the POI. Wherever the relevant information was not provided by the exporter, Authority has relied on facts available to determine the subsidy margin.

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

SN	Program No.	Name of the Schemes	Subsidy Margin %	Range %
1	Program No 1 & 2	Provision for standing timber at LTAR	***%	0-10
2	Program No 5	Exemption of Import Duty	***%	0-10
3	Program No 11a	Schemes identified in the form of Land Subsidy	***%	0-10
4	Program No 11b	Provision for Electricity at Less Than Adequate Remuneration	***%	0-10
		Total Subsidy	***%	10-20

PT. Sumatera Prima Fiberboards

146. PT Sumatera Prima Fiberboards is a producer/exporter of subject goods in Indonesia. Sumatera filed the questionnaire response and provided information regarding the subsidy programs availed by them.

147. Authority examined the response filed by PT Sumatera Prima Fiberboards and upon examination requested further information from them and also verified the information provided in the response to the extent deemed necessary. PT Sumatera Prima Fiberboards has disclosed in its questionnaire response that it has availed exemption on import duty. Additionally, the Authority determined that the subsidy programs resulting in provision for land, wood and electricity at LTAR were availed by PT Sumatera Prima Fiberboards. As a result, benefit was conferred to PT Sumatera Prima Fiberboards in the form of various subsidies.

148. Authority has verified the information provided by PT Sumatera Prima Fiberboards and determined subsidy margin for programs for which benefit was received or accrued during the POI. Wherever the relevant information was not provided by the exporter, Authority has relied on facts available to determine the subsidy margin.

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

SN	Program No.	Name of the Schemes	Subsidy Margin %	Range %
1	Program No 1 & 2	Provision for standing timber at LTAR	***%	0-10
2	Program No 5	Exemption of Import Duty	***%	0-10
3	Program No 11a	Schemes identified in the form of Land Subsidy	***%	0-10
4	Program No 11b	Provision for Electricity at Less Than Adequate Remuneration	***%	0-10
		Total Subsidy	***%	10-20

150. Countervailing duty for all other producers/exporters from Indonesia has been determined based on the highest of the subsidy margins for the cooperating party, for the subsidies availed by them and based on facts available for other subsidy programs.

SN	Program No.	Name of the Schemes	Subsidy Margin %	Range %
1	Program No 1 & 2	Provision for standing timber at LTAR	***%	0-10
2	Program No 5	Exemption of Import Duty	***%	0-10
3	Program No 11a	Schemes identified in the form of Land Subsidy	***%	0-10
4	Program No 11b	Provision for Electricity at Less Than Adequate Remuneration	***%	0-10
		Total Subsidy	***%	10-20

Malaysia

Program No. 1: Market Development Grant

Submissions by the Petitioners

151. The petitioners submitted that the said program is administered by the Malaysia External Trade Development Corporation (MATRADE). The Guidelines for Market Development Grant (MDG), 2018 allows Small and Medium Enterprises (SMEs) that meet certain eligibility criteria to claim up to 100% reimbursement on actual expenses incurred while participating in a number of export promotional activities listed in the guidelines. The program provides a financial contribution in the form of direct transfer of funds and a benefit is thereby conferred. The benefit under the program is available to enterprises contingent on exports and hence, is deemed specific.

Submissions by Government of Malaysia/other interested parties

152. The Government of Malaysia submitted that the Market Development Grant is part of the SME masterplan structured under the 11th Malaysia Plan (2016-2020) for the purpose of increasing the SME's participation in export promotional activities. Malaysian SMEs are provided a reimbursement grant up to RM 200,000 for participation in export promotional activities. The grants are disbursed subject to approval.

Examination by the Authority

153. It is noted that Market Development Grant (MDG) is a part of the 11th Malaysian Plan (2016-20). It is intended to increase participation of SMEs in export promotional activities. The MDG provides SMEs a reimbursable grant up to RM 200,000 for their participation in export promotional activities such as International Trade Fairs, Trade & Investment Missions /Export Acceleration Missions, International Conferences Overseas and Listing Fees for Made-in-Malaysia Products.

154. The subsidy program provides for financial contribution in the form of direct transfer of funds and benefit is thereby conferred to the recipient. The subsidy program is also specific because is contingent on export. Therefore, the Authority holds this program countervailable.

155. SME with at least 60% of the equity owned by Malaysians is only eligible for the program. Since none of the responding producers/exporters meet this criterion, therefore, it is noted that no countervailing duty should be imposed against responding producers/exporters under this subsidy program.

Program No. 2: Export Credit Refinancing

Submissions by the Petitioners

156. The petitioners submitted that the said program is administered by the Export-Import Bank of Malaysia Berhad (EXIM Bank). The Export Credit Refinancing Guideline issued by the EXIM Bank provides an Export Credit Refinancing (ECR) scheme that is used to promote Malaysia's exports and international trade in the form of Pre-shipment and Post-shipment

financing. Pre-shipment financing is an advance by EXIM Bank to facilitate the export of Malaysian products prior to shipment and post-shipment financing is an advance unto 100% export bill value provided to exporters to finance the export after shipment. The program provides a financial contribution in the form of direct transfer of funds and a benefit is thereby conferred. The benefit under the program is available to enterprises contingent on exports and hence, is deemed specific. Additionally, the ECR Guidelines contain a negative list to identify eligible products for the program.

157. The responding exporters have failed to provide reasons for non-availment of the program despite being eligible for the same.

Submissions by Government of Malaysia/other interested parties

158. The Government of Malaysia submitted that the scheme is used to promote Malaysia's exports and international trade in the form of pre-shipment and post-shipment financing. The program is available to any manufacturing and export trading companies (1) incorporated in Malaysia, and (2) involved in export activities.

Examination by the Authority

159. It is noted that the program is administered by Export-Import Bank of Malaysia (EXIM Bank). Export credit refinancing program provides loan to enterprise to finance export of products. The program is governed by Export Credit Refinancing guidelines issued by the Bank, which provides for eligibility criteria including eligibility of product (negative list of products which is maintained by bank) for the purpose of the program. The subsidy program is not restricted to any particular sector and is available to all companies incorporated in Malaysia.
160. EXIM Bank is a government-owned financial institution. It is a wholly owned subsidiary of the Minister of Finance. As an agency under the purview of the Ministry of Finance, the major role of the Exim Bank is to provide credit facilities to finance and support exports and imports of goods, services and overseas projects with emphasis on non-traditional markets, providing export credit insurance services, export financing insurance, overseas investments insurance and guarantee facilities.
161. It is noted that the EXIM Bank is a public body because it is owned by Government and is vested with the Government Authority to carry out governmental functions. Accordingly, the loan provided by EXIM Bank is financial contribution in the form of direct transfer of funds by a public body. The program is also specific because it is contingent on export. The benefit conferred on the recipient is in the form of difference between the amount of interest charged by the EXIM bank and the amount of interest charged by the comparable commercial bank. Therefore, based on the above facts the Authority holds this program as countervailable. However, since none of the responding producers/exporters have availed benefit under this program, it is noted that no countervailing duty should be imposed against them under this program.

Program No. 3: Buyer Credit Guarantee

Submissions by the Petitioners

162. The petitioners submitted that the said program is administered by the Export-Import Bank of Malaysia Berhad (EXIM Bank). The provides extends a Bankers Trade Credit Takaful (BTCT) which is a Credit Takaful designed to protect the Islamic Financial Institutions (IFIs) against risk of non-payment by their exporters arising from default by the overseas buyers. The program covers risk to the tune of 70% of the Export Bill or Advances and 95% of Letter of Credit Value. The program provides a financial contribution in the form of direct transfer of funds and a benefit is thereby conferred. The benefit under the program is available to enterprises contingent on exports and hence, is deemed specific.
163. The responding exporters have failed to provide reasons for non-availment of the program despite being eligible for the same.

Submissions by Government of Malaysia/other interested parties

164. The Government of Malaysia submitted that the Bankers Trade Credit Takaful (BTCT) which is a Credit Takaful designed to protect the Islamic Financial Institutions (IFIs) against risk of non-payment by their exporters arising from default by the overseas buyers.

Examination by the Authority

165. It is noted that the program is administered by EXIM Bank. There is no law or legal regulation governing the program. It has already been determined in the above scheme that EXIM Bank is a public body. Under this program, EXIM Bank provides guarantee to financial institutions against risk of non-payment by their exporters (customers) because of default arising from overseas buyers.
166. The program provides for financial contribution in the form of potential direct transfer of funds and benefit is thereby conferred. The benefit conferred on the recipient is equivalent to (i) the difference between the fee paid by the recipient for availing guarantee from EXIM Bank and the fee that would have been paid to any other commercial bank for such guarantee and (ii) the difference between the loan repayment to the lending bank in question (owing to less than normal commercial interest rate because of EXIM bank guarantee) and the amount that would have been payable in absence of such guarantee (based on normal commercial interest rate). The subsidy program is also specific because it is contingent on export. Therefore, the Authority holds this program as countervailable.
167. As submitted by the responding producers/exporters that they have not availed any benefit under this program, hence it is noted that no countervailing duty should be imposed against them under this program.

Program No. 4: Pioneer Status

Submissions by the Petitioners

168. The petitioners submitted that the said program is administered by the Malaysian Industrial Development Authority (MIDA), and the Inland Revenue Board Malaysia. Sections 5-25 of the Promotion of Investment Act, 1986 grants a Pioneer Status to any company intending to participate in a promoted activity or to produce a promoted product as listed in the Promotion of Investments (Promoted Activities and Promoted Products) Order, 2012. Such enterprises are provided tax incentives for their investments in those sectors/products and losses incurred from non-promoted activity is reduced from the statutory income raised from the promoted activity. The program provides a financial contribution in the form of revenue forgone that is otherwise due and a benefit is thereby conferred. The program is also specific as it provided the benefit only to enterprises engaged in promoted activity/product as per the law.
169. The responding exporters have failed to provide reasons for non-availment of the program despite being eligible for the same.

Submissions by Government of Malaysia/other interested parties

170. The Government of Malaysia submitted that the Pioneer Status may be granted to any company intending to participate in a promoted activity or to produce a promoted product, as determined by the Minister of Finance and the Minister of International Trade and Industry, including an activity/product which is of national and strategic importance to Malaysia. The benefit under the program is provided subject to approval by the Approval Committee.
171. The Government also submitted that changes will be made to the program since it is committed to adopt the Forum on Harmful Tax Practices program under the OECD.
172. It has been submitted that eligibility for a program or mere admission of existence of an alleged subsidy program does not show all eligible producers ought to have applied and availed the benefit. There is no obligation to prove the negative.

Examination by the Authority

173. It is noted that Sections 5 to 25 of the Promotion of Investment Act, 1986 provides for the Pioneer Status program. The program provides for tax incentives in the form of exemption from income tax. Losses incurred during the exemption period can be carried forward for subsequent years to offset taxable income/net profit. The program is available for pre-specified list of promoted products/activities.
174. The program provides for financial contribution in the form of revenue foregone, which is otherwise due and benefit is thereby conferred. The program is also specific because it is available to promoted activity/product mentioned in the list. Examination of the list shows that the promoted product includes the product under investigation. Therefore, the Authority holds this program as countervailable.
175. The responding producers/exporters merely submitted in their Questionnaire Response that they have not availed the benefit under the program. Both the responding producers/exporters are eligible to receive the benefits under the program as per sections 5 to

25 of the Promotion of Investments Act, 1986 and the Promotion of Investments (Promoted Activities and Promoted Products) Order, 2012.

176. However, on perusal of the documents submitted along with the Questionnaire Responses, it is evident that neither M/s Segamat Panel Boards nor M/s Robin Resources availed the benefit under the program. Therefore, it is noted that no countervailing duty should be imposed against the responding exporters/producers under this subsidy program.

Program No. 5: Investment Tax Policies

Submissions by the Petitioners

177. The petitioners submitted that the said program is administered by the Malaysian Industrial Development Authority (MIDA), and the Inland Revenue Board Malaysia. Sections 26-29 of the Promotion of Investment Act, 1986 grants an Investment Tax Allowance to any company intending to participate in a promoted activity or to produce a promoted product as listed in the Promotion of Investments (Promoted Activities and Promoted Products) Order, 2012. The allowance is only given on capital expenditure incurred on industrial buildings, plants and machinery directly used for the purpose of the promoted activities or the production of the promoted products. The allowance of not more than 100% of the qualifying expenditure is granted and the same is exempt from the tax payable. The program provides a financial contribution in the form of revenue forgone that is otherwise due and a benefit is thereby conferred. The program is also specific as it provided the benefit only to enterprises engaged in promoted activity/product as per the law.
178. The program was previously examined by the Authority in the Final Findings of anti-subsidy investigation on imports of "Continuous Cast Copper Wire Rods" from Indonesia, Malaysia, Thailand, and Vietnam and was found countervailable.
179. The responding exporters have failed to provide reasons for non-availment of the program despite being eligible for the same. Moreover, one of the responding exporters, i.e. Segamat Panel Boards Sdn. Bhd., has been approved by the Government of Malaysia to avail the program.

Submissions by Government of Malaysia/other interested parties

180. The Government of Malaysia submitted that the Investment Tax Allowance may be granted to any company intending to participate in a promoted activity or to produce a promoted product, as determined by the Minister of Finance and the Minister of International Trade and Industry, including an activity/product which is of national and strategic importance to Malaysia. The allowance is only given on capital expenditure incurred on industrial buildings, plant and machinery directly used for the purpose of the promoted activities or the production of the promoted products. The benefit under the program is provided subject to approval by the Approval Committee.

Examination by the Authority

181. It is noted that Sections 26 to 29 of the Promotion of Investments Act, 1986 provides for Investment Tax Allowance program. Promoted activities and promoted products are granted capital allowance. Out of the total capital expenditure, 60% of the capital expenditure is granted as allowance and can be deducted against 70% of statutory income for 5 years. Remaining income can be taxed at normal income tax rate. Even for companies that incur the qualifying expenditure, the Approval Committee retains the discretion to reject the applicant seeking benefit under this program.
182. At the stage of desk verification for the Government of Malaysia, the Authority had sought clarification on programs administered under sections 26-29 of the Promotion of Investment Act, 1986 (Program No. 5) and 127 (3A) of the Income Tax Act, 1967 (Program No. 19). Based on the information provided, the Authority is convinced that the response filed by M/s Robin Resources under the heading of Program No. 5 pertains to Program No. 19.
183. The program provides for financial contribution in the form of revenue foregone and benefit is thereby conferred. The program is also specific since it is limited to certain enterprises engaged in promoted activities/products as per the Promotion of Investments (Promoted Activities and Promoted Products) Order, 2012 and are approved by the Approval Committee. A company that has received income tax exemption from Pioneer Status cannot avail benefit under this program. Therefore, the Authority holds this program as countervailable.
184. However, M/s Segamat Panel Board has submitted in its Questionnaire response that the Government of Malaysia approved the program to M/s Segamat Panel Board on 10 August, 2004 but no benefit was availed in the POI and M/s Robin Resources has also submitted that it has not availed any benefit under this program, accordingly, it is noted that no countervailing duty should be imposed against them under this program.

Program No. 6: Reinvestment Allowance

Submissions by the Petitioners

185. The petitioners submitted that the said program is administered by the Inland Revenue Board Malaysia. Schedule 7A of the Income Tax Act, 1967 and the Public Ruling No. 6/2012 grants a reinvestment allowance at the rate of 60% on the qualifying capital expenditure incurred by the company and can be offset against 70% of its statutory income for the year of assessment. It is also given for a period of 15 consecutive years beginning from the year the first reinvestment is made. The program provides a financial contribution in the form of revenue forgone that is otherwise due and a benefit is thereby conferred. The program is also specific as it is available to enterprises that are in operation for at-least 3 years and are undertaking qualifying projects (expanding, modernizing or automating its existing business in respect of manufacturing).
186. The program was previously examined by the Authority in the Final Findings of anti-subsidy investigation on imports of "Continuous Cast Copper Wire Rods" from Indonesia, Malaysia, Thailand, and Vietnam and found countervailable.

Submissions by Government of Malaysia/other interested parties

187. The Government of Malaysia submitted that tax exemption may be granted to any company intending to participate in a promoted activity or to produce a promoted product, as determined by the Minister of Finance and the Minister of International Trade and Industry, including an activity/product which is of national and strategic importance to Malaysia. To avail the program, (1) the business must have been in operation for not less than 36 months, and (2) the company/person must have incurred, in the base year for year of assessment, capital expenditure on a factory, plant or machinery used in Malaysia for the purpose of a qualifying project. The allowance is provided for fifteen consecutive years of assessment beginning from the year of assessment for the basis period in which a claim is made. Since it is not linked to export conditions, not specific and is generally available, it is not a countervailable subsidy.

Examination by the Authority

188. It is noted that a company or a person resident in Malaysia is granted Reinvestment Allowance if the company is in operation for 3 years and has incurred capital expenditure on factory, plant and machinery for qualifying project. Deduction is granted from 70% of statutory income for 60% of such capital expenditure. Re-investment allowance can be claimed for 15 years beginning from the year of assessment in which a claim is made. Inland Revenue Board is responsible for administration of this program.

189. The program provides for financial contribution in the form of revenue foregone, which is otherwise due and benefit is thereby conferred. Even though the subsidy program is not limited to promoted activity, still the subsidy program is specific because it is available to enterprises that are in operation for at-least 3 years and are undertaking qualifying project (expanding, modernizing or automating its existing business in respect of manufacturing). Therefore, the Authority holds this program as countervailable.

190. The responding producers/exporters have submitted in their Questionnaire Response that they have not availed the benefit under the program. Hence, it is noted that no countervailing duty should be imposed against them under this program.

Program No. 7: Accelerated Capital Allowance

Submissions by the Petitioners

191. The petitioners submitted that the said program is administered by the Inland Revenue Board Malaysia. The Income Tax (Accelerated Capital Allowance) (Information and Communication Technology Equipment) Rules 2018 grants an allowance which shall be equal to one-fifth of the capital expenditure incurred for the purchase of any information and communication technology equipment. The amount equal to the allowance is further deducted from the company's taxable income. The program provides a financial contribution in the form of revenue foregone that is otherwise due and a benefit is thereby conferred. The program

is also specific as it is available only to enterprises that incur a qualifying expenditure as per the relevant law and does not qualify for re-investment allowance on account of expiry of 15 years period of eligibility.

192. The program was previously examined by the Authority in the Final Findings of anti-subsidy investigation on imports of “Continuous Cast Copper Wire Rods” from Indonesia, Malaysia, Thailand, and Vietnam and found countervailable.

193. The benefit received under the program is such that it would flow down to the PUC. Moreover, money is fungible and the company has the discretion to use it for any of its business segments. In a CVD investigation, the subject of the investigation is the company as a whole and not the product. The “de-minimis” rule is not applied to a program but on an exporter-wise basis.

Submissions by Government of Malaysia/other interested parties

194. The Government of Malaysia submitted that the Accelerated Capital Allowance provides allowance which shall be equal to one-fifth of capital expenditure incurred for the purchase of any information and communication technology equipment. The program is not a countervailable subsidy since it is not linked to export conditions, not specific and it is generally available.

195. Segamat Panel Boards Sdn. Bhd. submitted that the program is not countervailable since it is neither prohibited nor specific. The benefit was received for the Company as a whole and not specific for the PUC.

196. It has been submitted that the petitioners’ submission on countervailability has no basis. The GOM further stated that the program is available to all companies and those that meet the eligibility criteria can claim the ACA. The subsidy margin calculated under this program is negligible and no duty should be recommended.

197. The margin under the program as per the disclosure statement is negligible and no countervailing duty should be recommended.

Examination by the Authority

198. It is noted that the program provides for capital allowance i.e., an allowance which shall be equal to one-fifth of the capital expenditure incurred for the purchase of any information and communication technology equipment. The program allows the company to write off the allowance from its taxable income.

199. It is further noted that the program provides for capital allowance i.e., deduction of capital expenditure from statutory income to promoted activity after the expiry of 15 years of reinvestment allowance period. The program allows to write off the total capital expenditure within three years, i.e., an initial allowance of 20 percent in the first year and an annual allowance of 40 percent in the next two years.

200. The program provides for financial contribution in the form of revenue foregone and benefit is thereby conferred. The program is also specific because it is available to certain enterprise carrying out promoted activity that qualify for using this allowance and does not qualify for re-investment allowance on account of expiry of 15 years period of eligibility incurring the qualifying expenditure. Therefore, the Authority holds this program as countervailable program.

201. It is noted that as per the Questionnaire response filed Robin, the company has not availed the benefit under the said scheme, whereas M/S Segamat Panel Boards has received the benefit. The Authority has quantified the subsidy margin based on the information submitted by the M/S Segamat Panel Boards. The subsidy margin determined has been provided in the table below.

Program No. 8: Tariff Related Incentives

Program No. 13: Exemption from Import Duty on Raw Materials/Components

202. The benefit provided under program No. 8 and Program No. 13 are the same. Hence, both these programs are analysed together.

Submissions by the Petitioners

203. The petitioners submitted that the said program is administered by the Royal Malaysian Customs Department (RMCD) and the Malaysian Investment Development Authority (MIDA). Section 14(2) of the Customs Act, 1967 grants a full exemption from import duty on raw materials/components provided they are not locally available and used directly in the production of the finished product at the approved manufacturer's premise(s). The exemption applies for the production of finished products whether meant for the export or domestic market. The program provides a financial contribution in the form of revenue forgone that is otherwise due and a benefit is thereby conferred. The program is also specific as it is limited to enterprises that use raw materials that are not available locally.

Submissions by Government of Malaysia/other interested parties

204. The Government of Malaysia submitted that the program involves evaluating duty exemption on raw material/component for qualified manufacturers. The same is done by a committee established with representatives from MoF, MITI, RMCD, and MIDA. To qualify for the same, the raw materials/components are not locally available and used directly in the production of the finished product at the approved manufacturer's premises. The program is not countervailable since it conforms to the provisions of Annexes I, II, and III of the ASCM.

Examination by the Authority

205. It is noted that the program is administered by the Royal Malaysian Customs Department (RMCD) and the Malaysian Investment Development Authority (MIDA). The program provides import duty exemption on raw material/component to approved manufacturers.

Exemption is granted when the raw materials/components are not locally available and used directly in the production of the finished product at the approved manufacturer's premise(s).

206. It is further noted that the program provides for financial contribution in the form of revenue foregone, which is otherwise due. The program is specific because it is limited to enterprises that use raw materials that are not available locally. Therefore, the Authority holds this program as countervailable program.

207. It is also noted that benefit has not been availed by any of the cooperating producers/exporters under this program, therefore it is decided not to impose any countervailing duty against them under this program.

Program No. 9: Allowance for Plants and Machinery

Submissions by the Petitioners

208. The petitioners submitted that the said program is administered by the Inland Revenue Board Malaysia. Schedule 3 of the Income Tax Act, 1967 grants a capital allowance (CA) amounting to 20% of the company's qualifying expenditure on machinery or plant i.e. relief for wear and tear of fixed assets for business in the year of assessment. The CA is deducted from the adjusted income from the business in arriving at the statutory income. The program provides a financial contribution in the form of revenue forgone that is otherwise due and a benefit is thereby conferred. The program is also specific as it is specifically beneficial to sectors having high capital expenditure and meets the eligibility criteria.

209. The benefit received under the program is such that it would flow down to the PUC. Moreover, money is fungible and the company has the discretion to use it for any of its business segments. In a CVD investigation, the subject of the investigation is the company as a whole and not the product.

Submissions by Government of Malaysia/other interested parties

210. The Government of Malaysia submitted that capital allowance is deductions for qualifying expenditure on machinery or plant. It is calculated for a year of assessment and is deducted from the adjusted income in arriving at the statutory income. The program is not a countervailable subsidy since it is not linked to export conditions, not specific and it is generally available.

211. M/s Segamat Panel Boards Sdn. Bhd. and Robin Resources (Malaysia) Sdn. Bhd. submitted that the program is not countervailable since it is neither prohibited nor specific. The benefit was received for the company as a whole and not specific for the PUC.

212. The exporters stated that the program is neither specific nor contingent on exports. The GOM further stated that the program is available to all companies and those that meet the eligibility criteria can claim the Capital Allowance.

Examination by the Authority

213. It is noted that capital allowance provides deductions for qualifying expenditure on machinery or plant. It is given to enterprise that incurs the qualifying expenditure. It is calculated for a year of assessment and is deducted from the adjusted income from the business in arriving at the statutory income. It is calculated on a straight-line method on the basis of a prescribed rate of allowance.
214. The program provides financial contribution in the form of revenue foregone, which is otherwise due. The program is specific because though it is generally available as per the law, it would benefit those companies that have high capital expenditure in practice. Therefore, Authority holds this program as countervailable.
215. It is noted as per the Questionnaire responses filed by both M/s Segamat Panel Board and M/s Robin Resources that they have availed the benefit under this subsidy program. Accordingly, it is noted that countervailing duty should be imposed against this subsidy program to M/s Segamat Panel Board as well as M/s Robin Resources. The Authority has quantified the subsidy margin based on the information submitted by M/s Segamat Panel Board and M/s Robin Resources in their Questionnaire Responses.

Program No. 10: Incentives for Manufacturing and Manufacturing related Services in East Coast Economic Corridor

Submissions by the Petitioners

216. The petitioners submitted that the said program is administered by the Inland Revenue Board Malaysia and the East Coast Economic Region Development Council. The Income Tax (Exemption) (No. 4) Order, 2016 grants a tax exemption to companies located in the East Coast and engaged in a production process that leads to value addition subject to the approval from the Approval committee. The tax exemption can be in the form of a customized incentives based on merit of each case, or 100% income tax exemption for 10 years from the year the company derives statutory income, or 100% income tax exemption amounting to a qualifying capital expenditure (Investment Tax Allowance) for 5 years, or stamp duty exemption on land or building acquired for development. The program provides a financial contribution in the form of revenue foregone that is otherwise due and a benefit is thereby conferred. The program is specific as it is limited to promoted products and also specific to region i.e., enterprise whose project is located in the east coast economic corridor.

Submissions by Government of Malaysia/other interested parties

217. The Government of Malaysia submitted that tax exemptions may be granted to any company intending to participate in a promoted activity or to produce a promoted product, as determined by the Minister of Finance, including an activity/product which is of national and strategic importance to Malaysia. In order to avail the benefit (1) the project should be located in the East Coast of Malaysia, (2) have value added, and (2) have level of technology as measured by the Managerial, Technical and Supervisory (MTS) Index. The benefit is further subject to approval by the Approval Committee.

218. The Government also submitted that changes will be made to the program since it is committed to adopt the Forum on Harmful Tax Practices program under the OECD.

Examination by the Authority

219. It is noted that full income tax exemption is granted under this program to the company whose project is located in the East Coast Economic Corridor and is intending to participate in a promoted activity or to produce a promoted product including an activity/product which is of national and strategic importance to Malaysia.

220. The program provides for financial contribution in the form of revenue foregone and benefit is thereby conferred. The program is also specific because it is limited to promoted products and also specific to region i.e., enterprise whose project is located in the East Coast Economic Corridor. Therefore, the Authority holds this program as countervailable.

221. However, none of the producers of the subject goods are found to be located in the East Coast Economic Corridor. Hence, it is noted that no countervailing duty should be imposed against the responding exporters under this program.

Program No. 11: Drawback on Import duty, Sales tax and Excise duty

Submissions by the Petitioners

222. The petitioners submitted that the said program is administered by the Royal Malaysian Customs Department (RMCD). Sections 93, 95, and 99 of the Customs Act, 1967 grants drawback on import duty, sales tax and excise duty that have been paid may be claimed by a manufacturer if the parts, raw materials or packaging materials are used in the manufacture of goods for export within a year based on conditions stipulated in the acts. The program provides a financial contribution in the form of revenue forgone that is otherwise due and a benefit is thereby conferred. The program was found specific by the DA and countervailable in the Final Findings of the CVD investigation on "Continuous Cast Copper Wire Rods" from Indonesia, Malaysia, Thailand, and Vietnam.

Submissions by Government of Malaysia/other interested parties

223. The Government of Malaysia submitted that the program provides a duty import refund on imported goods subsequently re-exported. The program is not countervailable since it conforms to the provisions of Annexes I, II, and III of the ASCM. The Panel Report in EU-Countervailing Measures on certain Polyethylene Terephthalate from Pakistan (DS 486), which was later upheld by the Appellate Body, held that products can be countervailed only to the extent that remission of duties obtained by a company is in excess of the duties accrued on the imported inputs.

Examination by the Authority

224. It is noted that the program is administered by the Royal Malaysian Customs Department (RMCD). Sections 93, 95, and 99 of the Customs Act, 1967 grants drawback on import duty,

sales tax and excise duty that have been paid may be claimed by a manufacturer if the parts, raw materials or packaging materials are used in the manufacture of goods for export within a year based on conditions stipulated in the acts. The program provides import duty refund on goods that are subsequently re-exported. In absence of any evidence to show that the program provides for permissible tax remission, it is determined that the subsidy program provides financial contribution in the form of revenue foregone, which is otherwise due and a benefit is thereby conferred. The program is export specific. Therefore, the Authority holds this program as countervailable program.

225. However, it is noted that benefit has not been availed by any of the cooperating producers/exporters under this program, therefore it is decided not to impose any countervailing duty against them under this program.

Program No. 12: Sales Tax Exemption

Submissions by the Petitioners

226. The petitioners submitted that the said program is administered by the Royal Malaysian Customs Department (RMCD). The Sales Tax (Persons Exempted from Payment of Tax) Order, 2018 grants an exemption from payment of sales tax to specific persons listed under the Order. The program provides a financial contribution in the form of revenue forgone that is otherwise due and a benefit is thereby conferred. The program is also specific as it is available only to persons listed under the Order.
227. The benefit received under the program is such that it would flow down to the PUC. Moreover, money is fungible and the company has the discretion to use it for any of its business segments. In a CVD investigation, the subject of the investigation is the company as a whole and not the product.

Submissions by Government of Malaysia/other interested parties

228. The Government of Malaysia submitted that there are persons or manufacturers who are exempted from paying sales tax on importation and purchase of locally manufactured goods under the Sales Tax (Persons Exempted from Payment of Tax) Order, 2018. The exemptions are classified into three schedules under the Order.
229. M/s Segamat Panel Boards Sdn. Bhd. and Robin Resources (Malaysia) Sdn. Bhd. submitted that the program is not countervailable since it is neither prohibited nor specific nor export contingent. The benefit was received for the Company as a whole and not specific for the PUC.
230. The GOM further stated that the program is available to all companies and those that meet the eligibility criteria can claim the sales tax exemption.

Examination by the Authority

231. It is noted that the program, is administered by the Royal Malaysian Custom Department. The program provides an exemption from payment of sales tax is granted to those persons enlisted under the Sales Tax (Persons Exempted from Payment of Tax) Order, 2018. The program provides a financial contribution in the form of revenue forgone that is otherwise due and a benefit is thereby conferred. The program is also specific as it is available only to persons listed under the Order. Therefore, Authority holds this program as countervailable program.
232. It is noted as per the Questionnaire responses filed by both M/s Segamat Panel Boards and M/s Robin Resources that they have availed the benefit under this subsidy program. Accordingly, it is noted that countervailing duty should be imposed against this subsidy program to M/s Segamat Panel Board as well as M/s Robin Resources. The Authority has quantified the subsidy margin based on the information submitted by M/s Segamat Panel Boards and M/s Robin Resources in their Questionnaire Responses.

Program No. 14: Double Deduction for Promotion of Exports

Submissions by the Petitioners

233. The petitioners submitted that the said program is administered by the Inland Revenue Board Malaysia. Section 41 of Promotion of Investment Act, 1986 read with Rule 4(2) of the Income Tax (Promotion of Exports) Rules 1986 grant an exemption on expenses incurred for the purpose of seeking opportunities, or in creating or increasing a demand for the export of Malaysian manufactured goods or agricultural products from income tax. The program provides a financial contribution in the form of revenue forgone that is otherwise due and a benefit is thereby conferred. The program is also specific as it is contingent on export performance and is limited to enterprises engaged in export promotion activity.
234. The program was previously examined by the Authority in the Final Findings of anti-subsidy investigation on imports of "Continuous Cast Copper Wire Rods" from Indonesia, Malaysia, Thailand, and Vietnam and found countervailable.
235. M/s Segamat Panel Boards Sdn. Bhd. has failed to provide reasons for non-availment of the program despite being eligible for the same.

Submissions by Government of Malaysia/other interested parties

236. The Government of Malaysia submitted that the program is applicable to all resident trading, manufacturing or agricultural companies in respect of expenses incurred for the purpose of seeking opportunities or in creating or increasing demand for the export of Malaysian manufactured goods or agricultural products.
237. Robin Resources (Malaysia) Sdn. Bhd. submitted that the program is not countervailable since it is neither prohibited nor specific. The benefit was received for the Company as a whole and not specific for the PUC.

238. It has been submitted that benefit is not automatic, and an application is required for the same. M/s Segamat Panel Boards has never got any benefit from it.

Examination by the Authority

239. It is noted that the program is governed by Section 41 of the Promotion of Investments Act, 1986 and Rule 4(2) of the Income Tax (Promotion of Exports) Rules, 1986. Under the program, double deduction from income is provided to enterprise involved in manufacturing, trading and agricultural activities for expenses incurred for promotion of export.
240. The program provides for financial contribution the form of revenue foregone, which is otherwise due and benefit is thereby conferred. The benefit is the difference between the amount of income tax paid after double deduction and the amount of income tax that would have been payable in absence of such double deduction. The program is also specific because it is contingent on export performance and is limited to enterprise engaged in export promotion activity. The Authority, therefore, holds this program as countervailable.
241. It is noted as per the Questionnaire responses filed by M/s Robin Resources that the company has availed the benefit under this subsidy program. However, no such benefit has been availed by M/s Segamat Panel Boards. Accordingly, it is noted that countervailing duty should be imposed against this subsidy program for Robin Resources (Malaysia) Sdn. Bhd. The Authority has quantified the subsidy margin based on the information submitted by Robin Resources (Malaysia) Sdn. Bhd. in its Questionnaire Response.

Program No. 16: Incentives for Small and Medium Enterprises

Submissions by the Petitioners

242. The petitioners submitted that the said program is administered by the Inland Revenue Board Malaysia. Schedule 1 of the Income Tax Act, 1967 grants a special tax rate for a resident company with paid up capital of RM2.5 million and below at the beginning of the basis period. Such companies have an income tax rate of 18% on the first RM500,000 chargeable income and 24% on the subsequent chargeable income. The program provides a financial contribution in the form of revenue forgone that is otherwise due and a benefit is thereby conferred. The program is also specific as it is limited to small and medium scale enterprises.
243. M/s Segamat Panel Boards Sdn. Bhd. has failed to provide reasons for non-availing of the program despite being eligible for the same.

Submissions by Government of Malaysia/other interested parties

244. The Government of Malaysia submitted that a special tax rate, at 18% for the first RM 500,000 chargeable income and 24% for subsequent chargeable income, is granted for a resident company with paid up capital of RM 2.5 million and below at the beginning of the basis period. The company should also not be part of a group of companies where any related party has a paid-up capital more than RM 2.5 million.

Examination by the Authority

245. The Authority notes that under this program, preferential income tax rate is provided for SMEs i.e., enterprise with paid up capital of RM 2.5 million and below. The chargeable income tax on the income up to RM 500,000 is 18% and that above RM 500,000 is 24%.
246. The program provides financial contribution in the form of revenue foregone, which is otherwise due and benefit is thereby conferred. The program is also specific because it is limited to small and medium scale enterprise. Therefore, the Authority holds this program as countervailable.
247. The Audit Record submitted by the responding producers/exporters shows that the income tax has been paid at the normal income tax rate and hence no benefit has been availed by them. In view of the above, it is noted that no countervailing duty should be imposed against them under this program.

Program No. 17: Allowance for Increased Export

Submissions by the Petitioners

248. The petitioners submitted that the said program is administered by the Inland Revenue Board Malaysia. The Income Tax (Allowance for increased exports) Rules, 1999 grants an allowance which is equal to 10% of the value of increased exports of the manufactured products where the products exported attained at least 30% of value added, or 15% where the products exported attained at least 50% of value added, or 10% of the value of increased exports of agricultural produce by the company. Such allowance is given against seventy percent of statutory business income of the company. The program provides a financial contribution in the form of revenue forgone that is otherwise due and a benefit is thereby conferred. The program is also specific as it is contingent on exports.

Submissions by Government of Malaysia/other interested parties

249. The Government of Malaysia submitted that a resident manufacturing company or agricultural company that exports in the basis year for a year of assessment is given an allowance for increased exports. In case of manufactured products, the allowance is determined as follows:
- 10% of the value of increased exports of the manufactured products of the company where the products exported attained at least 30% of value added;
 - 15% of the value of increased exports of the manufactured products of the company where the products exported attained at least 50% of value added.

Examination by the Authority

250. It is noted that a resident manufacturing company or agricultural company that exports manufactured products or agricultural produce is to be given an allowance for increased

exports. The allowance is equivalent to 10% or 15% of the value of increased exports of the manufactured products by the company. Allowance will be given against 70% of the statutory business income.

251. The program provides for financial contribution in the form of revenue foregone, which is otherwise due. The program is also specific because it is contingent on export performance. Therefore, the Authority holds this program as countervailable.
252. However, as no benefit has been availed by the cooperating producers/exporters under this program, therefore, it is noted that no countervailing duty should be imposed against the responding exporters under this program.

Program No. 18: Tax Exemptions for Exporters in Free Trade Zones

Submissions by the Petitioners

253. The petitioners submitted that the said program is administered by the Free Zone Authority and the Customs Authorities. The Free Zone Act, 1990 and the Free Zone Regulations, 1991 grants an exemption on payment of tax/duty for goods and services that may be brought into, produced, manufactured or provided in a free zone declared under Section 3(1) of the Free Zone Act, 1990. The program provides a financial contribution in the form of revenue forgone that is otherwise due and a benefit is thereby conferred. The program is specific as it is limited to promoted products and also specific to region i.e. enterprise whose project is located in the free zone.

Submissions by Government of Malaysia/other interested parties

254. The Government of Malaysia submitted that goods and services of any description except those specifically and absolutely prohibited by law may be brought into, produced, manufactured, or provided in a Free Zone without payment of any duty/tax.

Examination by the Authority

255. The Authority notes that the program is administered by the Free Zone Act, 1990 and the Free Zone Regulations, 1991. Free zones are managed by Free Zone Authorities appointed by the Minister of Finance to administer, maintain and operate a free zone. Goods and services of any description except those specifically and absolutely prohibited by law, may be brought into, produced, manufactured or provided in a free zone without payment of any duty/tax.
256. The program provides for financial contribution in the form of revenue foregone, which is otherwise due and benefit is thereby conferred. The program is also specific since it is available to enterprise located in free zone. Authority has already determined that countervailing duty should be imposed against subsidy program granting exemption from import duties. Therefore, Authority holds this program to be countervailable.
257. The Authority notes that neither of the responding producers/exporters are located in any of the Free Trade Zones. Hence, they are not eligible to avail the benefit under the program.

In view thereof, it is noted that no countervailing duty should be imposed against them under this subsidy program.

Program No. 19: Investment Tax Allowance

Submissions by the Petitioners

258. The petitioners submitted that the said program is administered by the Malaysian Investment Development Authority (MIDA) and the Inland Revenue Board Malaysia. Section 127 (3A) of the Income Tax Act, 1967 grants an Investment Tax Allowance (ITA) provided on merits of certain case such as capital intensive, capable of generating significant linkages, import substitution, high value added, technology, green technology, job creation, contribution to the development of manufacturing support services and spillover effect to the country. The ITA is further allowed to be deducted from the taxable income of the company. The program provides a financial contribution in the form of revenue forgone that is otherwise due and a benefit is thereby conferred. The program is also specific as it is limited to enterprises that meet the eligibility criteria and is approved by the Approval Committee.

Submissions by Government of Malaysia/other interested parties

259. The Government of Malaysia submitted that an Investment Tax Allowance may be granted to any company based on the merits of certain cases such as capital intensive, capable of generating significant linkages, import substitution, high value added, technology, green technology, job creation, contribution to the development of manufacturing support services and spillover effect to the country. Companies may avail the program subject to approval of their application submitted to the MIDA. Despite meeting all the eligible criteria, the application maybe rejected by the Approval Committee.

260. M/s Robin Resources (Malaysia) Sdn. Bhd. submitted that the program is not countervailable since it is neither prohibited nor specific. The benefit was received for the Company as a whole and not specific for the PUC.

Examination by the Authority

261. The Authority notes that the program is administered by the Malaysian Investment Development Authority (MIDA) and the Inland Revenue Board Malaysia. Under the program, an Investment Tax Allowance (ITA) is provided on merits of certain case such as capital intensive, capable of generating significant linkages, import substitution, high value added, technology, green technology, job creation, contribution to the development of manufacturing support services and spillover effect to the country. This allowance is further deducted from the taxable income of the company. The program, hence, provides a financial contribution in the form of revenue forgone that is otherwise due and a benefit is thereby conferred. The program is specific since it is available to only those enterprises that incurred the qualifying expenditure. As per Government of Malaysia the said benefit is received by the cooperating exporters. Hence, the Authority holds this program as countervailable.

262. It is noted as per the Questionnaire responses filed by M/s Robin Resources under the heading "Program No. 5" that they have availed the benefit under this subsidy program. Accordingly, it is noted that countervailing duty should be imposed against M/s Robin Resources under this subsidy program. The Authority has quantified the subsidy margin based on the information submitted by M/s Robin Resources in its Questionnaire Response.

Program No. 20: Provision of Standing Timber for Less Than Adequate Remuneration

Submissions by the Petitioners

263. The petitioners submitted that the said program is administered by the State Forestry Department. The Government of Malaysia controls nearly all of Malaysia's harvestable forests and they are leased to companies for logging on which a stumpage rate is levied. Sections 60, 61 and 75 of the National Forestry Act, 1984 together with Rules 22 and 23 of the State Forest Rules provide for stumpage charges lower than the market benchmark for stumpages. The government also provides a replanting subsidy to support rubberwood plantation and dependent industries. The government has also maintained a ban on exports of rubberwood. The program provides a financial contribution in the form of provision of goods for less than adequate remuneration and a benefit is thereby conferred. The program is also specific as it is primarily beneficial to enterprises that use timber as a raw material.

264. As per the website information of the responding producers from Malaysia, rubber wood & tropical mixed wood are used as raw material for the production of the PUC.

265. "Forest produce" as per the National Forestry Act is an inclusive definition and rubberwood is nowhere specifically excluded under it. If no royalty is charged on rubberwood, as per the interested party, it further proves subsidies.

266. The royalty charged by the State Authorities is discretionary and disregards market principles. Hence, charging a royalty in return for logging is in itself a distortion of the forestry sector in Malaysia.

Submissions by Government of Malaysia/other interested parties

267. The GOM and responding producers/exporters has stated that the Authority should reject the new alleged subsidies which were alleged at the time of written submissions, which is against ASCM. Rubberwood is not covered within the definition of 'forest produce' under the relevant legislation. There is no royalty collected on rubberwood and hence, no waiver was possible.

268. Rubberwood is not covered within the definition of 'forest produce' under the relevant legislation.

269. There is no royalty collected on rubberwood and hence, no waiver is possible.

270. SPB purchased Wood/Power/Land/Gas from open market and from private entities.

Program No. 21: Government Prohibition of Log Exports

Submissions by the Petitioners

271. The petitioners submitted that the said program is administered by the Ministry of Plantation Industries and Commodities. Under the National Timber Industry Policy 2009-2020, a complete log export ban exists in Sabah since 2018 and in Peninsular Malaysia since 1985. Sarawak has a log export ban on 80% of its production since 1988. A temporary nationwide export ban on rubber wood also has been in place since 2017. Imposition of export restraints distorts the domestic market for logs and makes them available to downstream industries at less than adequate remuneration. The program, hence, provides a financial contribution in the form of provision of goods for less than adequate remuneration and a benefit is thereby conferred. The program is also specific as it is primarily beneficial to enterprises that use timber as a raw material.

Submissions by Government of Malaysia/other interested parties

272. The GOM and responding producers/exporters has stated that the Authority should reject the new alleged subsidies which were alleged at the time of written submissions, which is against ASCM. None of the responding producers/exporters has availed the benefit.

273. M/s Robin Resources has submitted that all kind of wood is procured from open markets, and they truly reflect the market value at that point of time. The wood vendors are privately owned companies and not from government agency. They do not obtain any kind of government grants or subsidies. Moreover, wood procured are not like timber size logs obtained from the forest. Wood is mainly sourced from rubber wood plantation where the plantation owners want to replant their rubber trees, or mixed wood is procured from various sawmill factories where they process the timber logs and all the waste from their production lines is sold as raw materials for fiberboard production. Thus, any Government interference in such resource is totally incorrect.

274. SPB purchased Wood/Power/ Land/Gas from open market and from private entities

Examination by the Authority

275. The Authority notes that program no. 20 & 21 relates to the series of the measure taken by Government of Malaysia to regulate, monitor and control forestry sector in Malaysia. Since effect of these programs results in timber being provided at less than adequate remuneration, it is considered appropriate to combine these programs and examine them collectively for the purpose of present investigations.

276. The GOM and responding producers/exporters has stated that the Authority should reject the new alleged subsidies which were alleged at the time of written submissions. The Authority notes that during the course of investigation the Authority may investigate into any other program of the subject countries which may be revealed during the course of the investigation as actionable subsidy.

277. The Applicants contended that the Government of Malaysia controls nearly all of Malaysia's harvestable forest through the National Forestry Act, 1984. Section 19 of the Act allows the State Authorities to grant licenses to entities for taking forest produce, which includes trees and parts thereof, from the permanent reserve forests and state land. Granting of licenses including area covered under it and renewal of licenses are at the discretion of the State Authorities. According to section 61 of the Act, on collection of the forest produce, the licensee is required to pay a royalty at the rate fixed by the State Authorities. The Act also empowers the State Authorities to even remit, commute or waive the royalty in order to encourage the utilization of any species of the forest produce which is otherwise uneconomical.
278. The Authority notes that GOM's control on the forestry sector through proper legislation shows that there is a substantial barrier to entry for new market participants and that the GOM had the capacity to both maintain and increase its market share. The export ban restricts the product within the nation and, accordingly, control prices of wood in Malaysia.
279. As per the National Forestry Act, the definition clause includes "Forest produce" which incorporates (i) *trees and all parts or produce not hereinafter mentioned of trees; (ii) plants including climbers, creepers and grasses, and all parts or produce of such plants; (iii) silk, cocoons, honey and wax and edible bird's nests.* Further it says (c) *the following whether found in or brought from a permanent reserved forest, State land, mining land, reserved land or alienated land: timber, fuelwood, charcoal, getah, getah taban leaves, wood oil, bark, extracts of bark, damar and atap.* Further, as per section 61 and 62(1) of National Forestry Act, "*Royalty shall be payable to the State Authority in respect of all forest produce taken at the rates laid down in the royalty rate list as published in the Gazette by the State Authority and Notwithstanding section 61, the State Authority may reduce, commute or waive any royalty in respect of, or exempt from royalty, any forest produce or class of forest produce taken.*"
280. The Act further defines timber as "*timber*" *includes trees when they have fallen or been felled, and all wood whether or not cut up, fashioned or hollowed out for any purpose.* The Authority notes that the Act neither exclusively mentions about the rubberwood nor expressly excludes rubber wood from timber. Hence, Authority has no reason to consider that rubber wood is not included within the forest of Malaysia.
281. As far as Government prohibition of log exports is concerned, the petitioners have alleged that the said program is administered by the Government of Malaysia. A ban on round (unprocessed) log exports was re-introduced in 2001, ostensibly to address the problem of over-exploitation. Further, it is noted that Malaysian Government has completely put an export ban on rubberwood. Through the imposition of export ban/prohibition the Government entrusted/directed domestic forestry/harvesting companies to provide low priced inputs (logs/wood) to the downstream industries. Specifically, the log export ban allowed the companies under investigation to purchase inputs (log/wood) from forestry/harvesting companies below market prices.

282. It is noted that the royalty charged by the State Authorities is discretionary and with disregard for market principles. The responding producers/exporters of Malaysia have submitted that they use rubberwood as their raw material. The Authority found that even Malaysia is having an export ban on logs. By imposing such targeted export restraints, the GOM puts domestic downstream producers into an economically irrational situation, which constrains them into selling their goods for a lower price than they could obtain in the absence of this policy. The measures at issue achieved the desired effect to distort the domestic market of wood in the subject country and to depress the price to an artificially low level to the advantage of the downstream industry.
283. The program provides a financial contribution in the form of wood at less than adequate remuneration and a benefit is thereby conferred. The program is also specific since it benefits those downstream industries that use wood as their primary raw material. In view of the above, the Authority holds this program countervailable.
284. To determine the quantum of the subsidy margin, the Authority looked for the appropriate benchmark whereby it was found that New Zealand is one of the largest exporters of logs globally. The Authority considered export price of logs from New Zealand as an appropriate benchmark as compared to import price from New Zealand. The actual procurement rate of wood has been considered as per the exporters questionnaire response. Considering the appropriate conversion rates, the subsidy margin determined has been provided in the table below.

Program No. 22a: Provision for Land at Less Than Adequate Remuneration

Submissions by the Petitioners

285. With regard to land, the program is administered by the GOM. Under the program, a 30% discount for land premium is provided if the project for which land is provided is completed and operations commenced within 36 months from the date of land alienation, and a 50% discount for land premium if the project is completed and operations commenced within 36 months from the date of land alienation. The program provides a benefit in the form of revenue forgone that is otherwise due. The program is also specific since it is enterprise specific. The Authority has quantified the subsidy margin for the program, it can be presumed that the financial records submitted by the producers/exporters show benefit being availed. Hence, the Authority is requested to uphold the same.

Submissions by Government of Malaysia/other interested parties

286. GOM requested to exclude the scheme as it is beyond the scope of investigation. According to the 9th Schedule of the Federal Constitution, land and land ways resources comes under purview of the state which in turn means that each state government has the authority to legislate on land matters under the state secretary office. the selling rate of land will be based on the current market value during the particular time. Any individual company/party cancel purchase land.

287. It has been submitted by the responding exporters that they purchased land from private entities at market rates prevalent at the time of purchase.
288. In 1994 M/s Robin Resources bought freehold land from private owner in open market environment at open market price. For any transaction locally, selling prices are determined by seller and buyer without any intervention of government authority. M/s Robin Resources is located in a state which is in the eastern region of peninsular Malaysia which is less developed and far away well-developed cities. Moreover, the population is also less than these well-developed as well as infrastructure is also not good. With these factors, definitely the land price in this area is cheaper than those well developed with good infrastructure that is located in the western region of peninsular Malaysia.
289. None of the responding producers/exporters has availed the benefit.

Examination by the Authority

290. The Authority notes that the program is administered by the State Authorities of Malaysia. Section 76 of the National Land Code, 1965 allows the State Authority to alienate State land on payment of a consideration in the form of annual rent/premium. However, section 76(c) permits the State Authorities to exempt the payment of premium in any case they find fit. The power to exempt premium is not regulated by any law or regulation and is based on the discretion of the State Authority.
291. The program provides a financial contribution in the form of provision for industrial land at less than adequate remuneration and a benefit is thereby conferred. The program is specific since the benefit is provided at the discretion of the government/authorities and not regulated by any law or regulation. Therefore, the Authority holds this scheme as countervailable.
292. According to the Customs Tariff (Identification, Assessment and Collection of Countervailing Duty on Subsidized Articles and for Determination of Injury) Rules, 1995, in case of subsidized provision of goods and services by the Government the difference between the amount paid by the firm and the adequate remuneration in relation to the prevailing market conditions will be the subsidy amount. The expense incurred by the responding producers/exporters on land has been taken from the Audit Reports filed along with their questionnaire responses. The average commercial land prices for the industrial areas in Malaysia has been taken as the appropriate benchmark. The subsidy margin calculated has been provided in the table below.

Programme no. 22b: Provision for Electricity at Less Than Adequate Remuneration

Submissions by the Petitioners

293. The petitioners submitted that the said program is administered by the Government of Malaysia and State-Owned Enterprises. The Government provides subsidized electricity through Power Purchase Agreements and discounts on land premiums. With regard to electricity at LTAR, the prices of natural gas, which is the primary source of power in Malaysia, are statutorily regulated for electricity sector. Hence, power is available to

producers of the PUC at LTAR. The same was examined in previous investigations on “float glass” and “tampered glass” and found countervailable. The program provides a financial contribution in the revenue forgone that is otherwise due and a benefit is thereby conferred. The program is also specific as it is limited to specific enterprises and regions.

Submissions by Government of Malaysia/other interested parties

294. GOM requested to exclude the scheme as it is beyond the scope of investigation. Natural gas to end users at transmission segment (high pressure) is supplied by PETRONAS while at distribution segment (low pressure) is supplied by Gas Malaysia Bhd. PETRONAS is a government-owned company while Gas Malaysia Bhd is a private company.
295. The scheme is not applicable as both the responding producers, M/s Segamat Panel Boards Sdn Bhd and M/s Robin Resources (Malaysia) Sdn Bhd are not consumers of natural gas during investigation period.
296. Electricity supply to the end customers (i.e. domestic, commercial, and industrial) is through Tenaga Nasional Berhad for Peninsular Malaysia. Tenaga Nasional Berhad is a public-listed company. GOM stated that there are 3 producers of electricity in Malaysia (under Suruhanjaya Tenaga’s purview): a. Tenaga Nasional Berhad (TNB), for Peninsular Malaysia; b. NUR Power Sdn Bhd (NUR), for Kulim Hi-Tech Industrial Park, Kedah; and c. Sabah Electricity Sdn Bhd (SESB), for Sabah and WP Labuan. TNB is a public-listed company, NUR is a private-owned company, and SESB is a private-owned company. Electricity is not provided by the Government. However, the price of electricity is regulated by the Government. Incentive-Based Regulation (IBR) within the framework for overall electricity pricing policy. The purpose of this framework is for Energy Commission to regulate the revenues and tariffs of electricity utility in Peninsular Malaysia. Under the IBR framework, the electricity tariff is charged for the provision of regulated services (the electricity). This framework allows electricity utility to recover an allowed revenue, representing the estimated efficient costs (including financing costs) of providing the regulated services.
297. However, the responding exporters have submitted that Tenaga Nasional Bhd (TNB) is the sole electricity supplier in Malaysia. The main utility in production is electricity/power. The sole electricity supplier in Peninsular Malaysia is a listed company in Stock Market, Tenaga Nasional Bhd (TNB). There is no other alternative, and the rates they charged to Industrial consumers are the same regardless of the factory premise or location. For the mega electricity consumers such as steel mill, they are in the position to negotiate with TNB for special tariffs by entering into Special Agreements. The companies with much lesser electricity consumption do not warrant them to have special agreements with TNB. The responding exporters, therefore, do not enjoy any economic benefits from electricity supplier.

Examination by the Authority

298. The power supply in Malaysia is mainly through natural gas and coal. Authority notes that supply of gas is governed by Gas Supply Act, 1993. This program allows regulated and more favorable rates of natural gas prices for industrial sector including the electricity sector. It is

noted that the GOM admittedly regulates the prices of gas supplying companies namely, PETRONAS and Gas Malaysia Berhad (GMB) which in turn supply gas to the end users at reduced rates. The difference is then recovered by the said company from the GOM. Thus, the Authority is of the view that there is a direct financial contribution by the GOM. Further, the response of GOM itself states that:

"The government has also prescribed the Incentive Based Regulation (IBR) framework, which sets the base tariff for industrial customers for three years from January 2017 to December 2019. This IBR framework allows changes in the gas costs to be passed through via the Gas Cost Pass-Through (GCPT) mechanism every six months. GCPT is the mechanism to pass through the gas cost differential which incurred due to the difference between gas cost forecasted in base tariff and actual gas cost. GCPT is implemented every 6 months in January and July. The rate will be either a rebate or surcharge"

299. As regards the contention of the GOM that the responding exporters are not natural gas consumers during period of investigation and the program is not available to them, the Authority notes that the GOM has also not denied the existence of the subsidy element in the gas pricing mechanism which is supplied to the industrial producers. The Authority further notes that it is not necessary that a subsidy is made available to the concerned enterprise directly for it to be countervailable. In this context, it would be appropriate to refer to the definition of "subsidy" under Section 9(1) of the Customs Tariff Act, 1975, which reads as under:

9(1) Where any country or territory pays, bestows, directly or indirectly, any subsidy upon the manufacture or production therein or the exportation therefrom of any article including any subsidy on transportation of such article, then, upon the importation of any such article into India, whether the same is imported directly from the country of manufacture, production or otherwise, and whether it is imported in the same condition as when exported from the country of manufacture or production or has been changed in condition by manufacture, production or otherwise, the Central Government may, by notification in the Official Gazette, impose a countervailing duty not exceeding the amount of such subsidy.

*Explanation. - For the purposes of this section, a subsidy shall be deemed to exist if –
(a) there is financial contribution by a Government, or any public body [in the exporting or producing country or territory], that is, where –*

- i. Government practice involves a direct transfer of funds (including grants, loans and equity infusion), or potential direct transfer of funds or liabilities, or both;*
- ii. Government revenue that is otherwise due is foregone or not collected (including fiscal incentives);*
- iii. a Government provides goods or services other than general infrastructure or purchases goods;*
- iv. a Government makes payments to a funding mechanism, or entrusts or directs a private body to carry out one or more of the type of functions specified in clauses (i)*

to (iii) above which would normally be vested in the Government and the practice in, no real sense, differs from practices normally followed by Governments; or.....

300. From the above, it is clear that if a government 'entrusts or directs a private body to carry out one or more of the type of functions illustrated in points (i), (ii) and (iii) which would normally be vested in the government, and the functioning, in no real sense, differs from functions normally carried out by governments in terms of paragraph i-iii of Section 9(1)(a) of the Customs Tariff Act, 1975, then it is deemed to be a subsidy. These provisions mirror Article 1.1(a)(1)(iv) and (iii) of the SCM Agreement. Therefore, any program which allows even the private bodies to provide Gas for less than adequate remuneration to the industry, is covered by the definition of "subsidy" in terms of the above provisions.
301. The Authority notes that electricity in Malaysia is produced from gas. The prices of gas supplying companies namely, PETRONAS and Gas Malaysia Berhad (GMB) are regulated by GOM. Hence, gas is available to PETRONAS and Gas Malaysia Berhad at a rate below the market rates.
302. Further, the electricity distribution in Malaysia is regulated under the Electricity Supply Act, 1990. Under the Act only those persons licensed by the Energy Commission shall supply electricity. Hence, such bodies are entrusted with governmental functions and act as public bodies. According to section 26 of the Act, the suppliers of electricity may charge a tariff as approved by the relevant Ministry. However, as per section 29 of the said Act, consumers of electricity are allowed to enter into Special Agreements with the suppliers of electricity whereby the tariffs may be specified as per the agreements. Also, it has been admitted by GOM that the prices of electricity in Malaysia is regulated. The Authority notes that the Government of Malaysia regulates the prices of gas as well as electricity which is different from the market prices for industrial users. Further, this scheme provides benefit to enterprises who procure electricity which is gas generated.
303. The companies under investigation are beneficiaries of such subsidization. The program is specific and provides a financial contribution in the form of provision of electricity at less than adequate remuneration and a benefit is thereby conferred. Therefore, the Authority holds this program as countervailable and it is also noted that countervailing duty should be imposed against the responding exporters under this program.
304. To determine the quantum of the subsidy margin, the Authority looked for the appropriate benchmark. The Authority has relied upon the prices provided as per the website of 'globalpetrolprices'. The actual electricity tariffs paid by the responding producers as per the additional questionnaire response has been considered to determine the subsidy margins. Considering the methodology above, the subsidy margins have been determined for the responding exporters/producers has been provided in the table below.

Robin Resources (Malaysia) Sdn. Bhd.

305. Robin Resources (Malaysia) Sdn. Bhd. is a producer/exporter of subject goods in Malaysia. Robin Resources filed the questionnaire response and provided information regarding the subsidy programs availed by them.
306. Authority examined the response filed by Robin Resources (Malaysia) Sdn. Bhd. and upon examination requested information from them and also verified the information provided in the response to the extent deemed necessary. Robin Resources (Malaysia) Sdn. Bhd. had disclosed in its questionnaire response that it had availed allowance on plant and machinery, sales tax exemption, double deduction for promotion of exports, and investment tax allowance. Additionally, the Authority determined that the subsidy programs resulting in provision for land, wood and electricity at LTAR were availed by Robin Resources (Malaysia) Sdn. Bhd. As a result, benefit was conferred to Robin Resources (Malaysia) Sdn. Bhd. in the form of various subsidies.
307. Authority has verified the information provided by Robin Resources (Malaysia) Sdn. Bhd and determined subsidy margin for programs for which benefit was received or accrued during the POI. Wherever the relevant information was not provided by the exporter, Authority has relied on facts available to determine the subsidy margin.
308. The table below provides name of the subsidy programs, and the corresponding subsidy margin.

SN	Program No.	Name of the Schemes	Subsidy Margin %	Range %
1	Program No 9	Allowance for Plants and Machinery	***%	0-10
2	Program No 12	Sales Tax Exemption	***%	0-10
3	Program No 14	Double Deduction for Promotion of Exports	***%	0-10
4	Program No 19	Investment Tax Allowance	***%	0-10
5	Program No 20	Provision for standing timber at LTAR	***%	0-10
6	Program No 22a	Provision for Land at Less Than Adequate Remuneration	***%	0-10
7	Program No 22b	Provision for Electricity at Less Than Adequate Remuneration	***%	0-10
		Total Subsidy	***%	10-20

Segamat Panel Boards Sdn. Bhd.

309. Segamat Panel Boards Sdn. Bhd. is a producer/exporter of subject goods in Malaysia. Segamat filed the questionnaire response and provided information regarding the subsidy programs availed by them.
310. Authority examined the response filed by Segamat and upon examination requested further information from them and also verified the information provided in the response to the extent deemed necessary. Segamat Panel Boards Sdn. Bhd. had disclosed in its

questionnaire response that it had availed accelerated capital allowance, allowance on plant and machinery and sales tax exemption. Additionally, the Authority determined that the subsidy programs resulting in provision for land, wood and electricity at LTAR were availed by Segamat Panel Boards Sdn. Bhd. As a result, benefit was conferred to Segamat Panel Boards Sdn. Bhd. in the form of various subsidies.

311. Authority has verified the information provided by Segamat Panel Boards Sdn. Bhd. and determined subsidy margin for programs for which benefit was received or accrued during the POI. Wherever the relevant information was not provided by the exporter, Authority has relied on facts available to determine the subsidy margin.

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

SN	Program No.	Name of the Schemes	Subsidy Margin %	Range %
1	Program No 7	Accelerated Capital Allowance	***%	0-10
2	Program No 9	Allowance for Plants and Machinery	***%	0-10
3	Program No 12	Sales Tax Exemption	***%	0-10
4	Program No 20	Provision for standing timber at LTAR	***%	0-10
5	Program No 22a	Provision for Land at Less Than Adequate Remuneration	***%	0-10
6	Program No 22b	Provision for Electricity at Less Than Adequate Remuneration	***%	0-10
		Total Subsidy	***%	10-20

313. Countervailing duty for all other producers/exporters from Malaysia has been determined based on the highest of the subsidy margins for the cooperating party, for the subsidies availed by them and based on facts available for other subsidy programs.

SN	Program No.	Name of the Schemes	Subsidy Margin %	Range %
1	Program No 7	Accelerated Capital Allowance	***%	0-10
2	Program No 9	Allowance and Plants and Machinery	***%	0-10
3	Program No 12	Sales Tax Exemption	***%	0-10
4	Program No 14	Double Deduction for promotion of Exports	***%	0-10
5	Program No 19	Investment Ta Allowance	***%	0-10
6	Program No 20	Provision for standing timber at LTAR	***%	0-10
7	Program No 22a	Provision for Land at Less Than Adequate Remuneration	***%	0-10
8	Program No 22b	Provision for Electricity at Less Than Adequate Remuneration	***%	0-10
		Total Subsidy	***%	10-20

Sri Lanka

F.7. Examination of Subsidy programs alleged by the Petitioners

(i) Program No. 1: National Building Tax Exemption (Indirect Tax)

Submissions by the Petitioners

314. The petitioners submitted that the said program is administered by the Government of Sri Lanka. Section 3 and Schedule 1 of the Nation Building Tax Act, 2009 grants an exemption to tax levied on import of machinery when they are imported for the purpose of manufacture of goods for exports. The amount exempted is the applicable turnover of exports or the value of imports of machinery used. The program provides a financial contribution in the form of revenue forgone that is otherwise due and a benefit is thereby conferred. The program is also specific as it is contingent on exports. The program was analyzed by the US DOC and found countervailable in the anti-subsidy investigation on “certain new pneumatic off-the-road tires (off road tires) from Sri Lanka.

Submissions by Government of Sri Lanka/other interested parties

315. The Nation Building Tax (NBT) is an indirect tax applicable on domestic consumption of goods and services. It was imposed vide the Nation Building Tax Act No. 9 of 2009 and subsequently amended several times. NBT is payable by every person (individual, company, body of persons) or partnership who (i) imports any article (unless exempted) into Sri Lanka, (ii) carries on business of manufacturing any article other than those exempted, (iii) carries on business of wholesale or retail of any article (other than those application under previous heading), and (iv) carries on the business of providing any service.

316. According to (i) and (ii) of Part I of the First Schedule to the Act, any article exported by the manufacturer of such article and import of raw materials for the production of articles to be exported is exempted from NBT. The same is applicable irrespective of product exported.

317. The program does not amount to a subsidy under the ASCM by virtue of footnote 1 of the agreement. The remittance is applicable to all exporters irrespective of the product. Footnote 1 state that the exemption of exports from indirect taxes, as defined under footnote 58, is not a financial contribution. The same principle is also provided in the Ad Note to Article XVI of the GATT. Annex I(g) of the ASCM states that such remittance of indirect tax levied is not a subsidy if it does not exceed those levied for production and distribution of like products for domestic consumption. The remittance under this Program does not exceed this level. The program is also not specific since it does not benefit a specific industry or sector. The producer of the PUC in Sri Lanka is not liable to pay NBT as it is applicable only for domestic consumption of goods and services. Additionally, the Nation Building Tax was abolished with effect from 1 Dec 2019.

Examination by the Authority

318. The Nation Building Tax (NBT) is an indirect tax applicable on domestic consumption of goods and services imposed vide the Nation Building Tax Act No. 9 of 2009. NBT is payable by every person (individual, company, body of persons) or partnership who (i) imports any article (unless exempted) into Sri Lanka, (ii) carries on business of manufacturing any article other than those exempted, (iii) carries on business of wholesale or retail of any article (other than those application under previous heading), and (iv) carries on the business of providing any service.
319. According to (i) and (ii) of Part I of the First Schedule to the Act, any article exported by the manufacturer of such article and import of raw materials for the production of articles to be exported is exempted from NBT. In absence of any evidence to show that the program provides for permissible tax remission, it is determined that the subsidy program provides financial contribution in the form of revenue foregone, which is otherwise due and a benefit is thereby conferred. Subsidy is also specific because it is contingent on export. Therefore, the Authority holds this program as countervailable.
320. However, since none of the producers/exporters of subject goods from the subject country have responded, hence the Authority has not quantified the subsidy margin under this program.

(ii) Program No. 2: Exemptions for Custom Duties on Capital and Intermediate Goods

Submissions by the Petitioners

321. The petitioners submitted that the said program is administered by the Industries & Services Directorate, Sri Lanka. Scheme TIEP-IV grants an exemption from customs duties levied on import of capital or intermediate goods when they are imported for the purpose of manufacture of goods for exports. The program provides a financial contribution in the form of revenue forgone that is otherwise due and a benefit is thereby conferred. The program is also specific as it is contingent on exports.
322. Though a claim on non-availment of the program was made by the Government of Sri Lanka, the government as well as the Sri Lankan exporters has not cooperated with the instant investigation and the claim is made without any supporting evidence.

Submissions by Government of Sri Lanka/other interested parties

323. An exemption on custom duties on imported capital and intermediate goods for manufacture of products and services for exports is provided by the Industries and Services Directorate under the Temporary Import for Export Processing (TIEP-IV) scheme. The same is applicable to capital goods involved in production process, intermediate goods, other essential equipment, transport equipment, and handling equipment. The program provides a 100% exemption of Customs Duty in case of exporters who export 50% or more of their output and indirect exporters who supply 50% or more of their output to direct exporters.

324. The Government of Sri Lanka submitted that the only exporter of the PUC into India, i.e., Merbok, was operating under the BOI Act until January 2019 and under TIEP-IV scheme thereafter. Under the BOI regime, Merbok was entitled to duty free access to import raw materials and the same was available to all companies in BOI status. The Company benefited from the scheme from January 2019 and not before that.

Examination by the Authority

325. The Authority notes that the program is administered by the Industries & Services Directorate, Sri Lanka as per Scheme TIEP-IV. Under the program, an exemption to customs tax levied on import of capital goods involved in production process, intermediate goods, other essential equipment, transport equipment, and handling equipment when they are imported for the purpose of manufacture of goods for exports is provided. The program provides a financial contribution in the form of revenue forgone that is otherwise due and a benefit is thereby conferred. The program is deemed specific since it is contingent on exports. Therefore, the Authority holds this program as countervailable. Since none of the producers/exporters of subject goods from the subject country have responded, the Authority has quantified the subsidy margin under this program on the basis of facts available.

(iii) Program No. 3: Income Tax Concessions for Specified Undertakings

Submissions by the Petitioners

326. The petitioners submitted that the said program is administered by the Government of Sri Lanka. Section 51 read with Schedule 5 of the Inland Revenue Act, 2006 grants a concessional income tax rate for companies engaged in the export of “non-traditional products” identified under the Act. The program provides a financial contribution in the form of revenue forgone that is otherwise due and a benefit is thereby conferred. The program is also specific as it is contingent on exports.

327. Though a claim on non-applicability of the program was made by the Government of Sri Lanka, the government as well as the Sri Lankan exporters has not cooperated with the instant investigation.

Submissions by Government of Sri Lanka/other interested parties

328. According to section 51 & 52 of Inland Revenue Act No. 10 of 2006, any company that carries on any specified undertaking and the taxable income of that company for any year of assessment includes any qualified export profits and income, such part of the taxable income of that company for that year of assessment as consists of such qualified exports profits and income shall, notwithstanding anything to the contrary in this Act, be chargeable with income tax at the appropriate rate specified in the Fifth Schedule to this Act.

329. The Government of Sri Lanka submitted that the only exporter of the PUC into India, i.e., Merbok, has been incurring losses since 2014 and hence, not liable to pay income tax. This makes the program not applicable.

Examination by the Authority

330. The Authority notes that Section 51 of the Inland Revenue Act, 2006 grants a concessional income tax rate for companies engaged in the export of “non-traditional products” identified under Schedule 5 of the Act. The program provides a financial contribution in the form of revenue forgone that is otherwise due and a benefit is thereby conferred. The program is deemed specific since it is contingent on exports and is exclusively provided to manufacturers of “non-traditional products” as per the Act. Therefore, the Authority holds this program as countervailable. However, since none of the producers/exporters of subject goods from the subject country have responded, hence the Authority is not able to quantify the subsidy margin under this program.

(iv) Program No. 4: Income Tax Exemptions for Undertakings with High Investment

Submissions by the Petitioners

331. The petitioners submitted that the said program is administered by the Government of Sri Lanka. Section 17A of the Inland Revenue Act, 2006 grants an exemption on payment of income tax for a period dependent on the amount of investment made for the production and export of “non-traditional products” identified under the Act. The program provides a financial contribution in the form of revenue forgone that is otherwise due and a benefit is thereby conferred. The program is also specific as it is contingent on exports.

332. Though a claim on non-applicability of the program was made by the Government of Sri Lanka, the government as well as the Sri Lankan exporters has not cooperated with the instant investigation.

Submissions by Government of Sri Lanka/other interested parties

333. Section 17 of the Inland Revenue Act provides for income tax holidays depending on the investment made by the undertaking. The section has been amended several times subsequently. Accordingly, manufacture, production, or processing of non-traditional goods for export have been included as activities in which investment can give rise to tax holiday as per the law.

334. The Government of Sri Lanka submitted that the only exporter of the PUC into India, i.e., Merbok, has been incurring losses since 2014 and hence, not liable to pay income tax. This makes the program not applicable.

Examination by the Authority

335. The Authority notes that section 17A of the Inland Revenue Act, 2006 grants an exemption on payment of income tax to companies engaged in the production and export of “non-traditional products” identified under the Act. The period for which the exemption is granted is dependent on the amount of investment made. The program provides a financial contribution in the form of revenue forgone that is otherwise due and a benefit is thereby

conferred. The program is deemed specific since it is contingent on exports and is exclusively provided to manufacturers of “non-traditional products” as per the Act. Therefore, the Authority holds this program as countervailable. However, since none of the producers/exporters of subject goods from the subject country have responded, hence the Authority is not able to quantify the subsidy margin under this program.

(v) Program No. 5: National Fertilizer Subsidy Scheme

Submissions by the Petitioners

336. The petitioners submitted that the said program is administered by the Ministry of Plantation Industries of the Government of Sri Lanka. The scheme provides fertilizers for rubber plantations at subsidized rates. The program provides a financial contribution in the form of provision for goods at less than adequate remuneration and a benefit is thereby conferred. The program is also specific as it is limited to the rubber plantation sector.

337. Though a claim on non-availment of the program was made by the Government of Sri Lanka, the government as well as the Sri Lankan exporters has not cooperated with the instant investigation.

Submissions by Government of Sri Lanka/other interested parties

338. Sri Lanka introduced agricultural subsidies for promoting agriculture and is provided for all crop sectors and sub-sectors. The subsidy is generally available and provided for all crop sectors and sub-sectors. Therefore, the program is not specific. It is available to all engaged in the agricultural sector. It does not benefit the rubber producers specifically and not provided to exporters. Hence, the subsidy is neither an export subsidy nor actionable as per the ASCM. The benefit is also too remote and not passed on to the fiberboard producers. The only exporter of the PUC into India, i.e., Merbok, is not registered with the administering authority to access the program.

Examination by the Authority

339. The Authority notes that Ministry of Plantation Industries of the Government of Sri Lanka provides significant amounts of subsidy to the rubber planters in the form of fertilizer subsidy. Being the primary raw material in the production of the PUC, this program indirectly allows its procurement of rubber wood at a subsidized rate.

340. The program provides a financial contribution in the form of provision for goods at less than adequate remuneration and a benefit is thereby conferred. The program is specific since it is provided exclusively to the agriculture sector. Therefore, the Authority holds this program as countervailable. However, since none of the producers/exporters of subject goods from the subject country have responded, hence the Authority is not able to quantify the subsidy margin under this program.

(vi) Program No. 6: Subsidies for Rubber plantation

Submissions by the Petitioners

341. The petitioners submitted that the said program is administered by the Rubber Development Board under the Ministry of Plantation Industries of the Government of Sri Lanka. The scheme provides grants in installments at various stages of a plantation depending on the size and also ensures a guaranteed support price. The program provides a financial contribution in the form of direct transfer of funds and a benefit is thereby conferred. The program is also specific as it is limited to the rubber plantation sector.
342. Though a claim on non-existence of the program was made by the Government of Sri Lanka, the government as well as the Sri Lankan exporters has not cooperated with the instant investigation.

Submissions by Government of Sri Lanka/other interested parties

343. There are two schemes administered by the Rubber Development Board and provided exclusively to rubber growers for new planting as well as replanting. The fiberboard producers in Sri Lanka use rubber logs which are a waste from the rubber industry. They are purchased at throw away prices at the end of the lifetime of the tree. But the purchase is not influenced by the scheme.
344. The subsidy is provided at an early stage of a rubber tree which has an economic life of 25-30 years. When calculated at the end of the said economic life of the rubber tree, value of the subsidy received is negligible given the erosion in value of money over time. The benefit is too remote and not passed on to the fiberboard producers. Hence, the subsidy does not exist.
345. Where a subsidy is granted to a different (upstream) entity than the exporting entity, an investigating authority must have evidence, and must determine based on that evidence, that any subsidy granted to the first entity passed through to the exporting entity. Otherwise, no subsidy to the exporting entity can be said to exist.

(vii) Program No. 7: Government Prohibition on Log Exports

Submissions by the Petitioners

346. The petitioners submitted that the said program is administered by the Government of Sri Lanka. The Government of Sri Lanka has put in place a complete log export ban since 1990. Imposition of export restraints distorts the domestic market for logs and makes them available to downstream industries at less than adequate remuneration. The program, hence, provides a financial contribution in the form of provision of goods for less than adequate remuneration and a benefit is thereby conferred. The program is also specific as it is primarily beneficial to enterprises that use timber as a raw material.

a. Submissions by Government of Sri Lanka/other interested parties

347. Government of Sri Lanka does not maintain a ban on export of timber logs. The only requirement for exporting logs is to obtain a license.

Examination by the Authority

348. The Authority notes that program no. 6 & 7 relates to the series of the measure taken by Government of Sri Lanka to regulate, monitor and control rubber plantation and wood ban. Since effect of these programs results in wood being provided at less than adequate remuneration, the Authority has combined these programs and examine them collectively for the purpose of present investigation.
349. The Authority notes that the Rubber plantation subsidy is administered by the Rubber Development Board. As admitted by GOSL, the Rubber Development Board currently implements two schemes, which are for the benefit of rubber growers, one for re-planting and the other for new planting. Fiberboard manufacturing uses rubber logs, which is a waste of the rubber industry at throw-away prices, at the end of the economic life (25-30 years) of a rubber. Further the Authority notes that Rubber Replanting Subsidy Act, No 16 of 1953 (as amended time to time) is an Act to provide for the establishment of a fund for the purpose of subsidizing the replanting of rubber estates and rubber small holdings and the processing of raw rubber including the purchase of machinery and equipment used in the processing of raw rubber. Small holders or rubber plantation companies who registered their holdings in the Rubber Development Department (RDD) are eligible to get the subsidy. Accordingly, the holders are required to prove the ownership of the land before getting registered with the department. Complete rubber plantation is controlled by the Government of Sri Lanka.
350. Further, the Authority notes that, GOSL formulated National Forest Policy for conservation of forests, which has been amended time to time. Later on, due to rising concerns of deforestation, the Forestry Sector Master Plan of Sri Lanka in 1986 and Forest Ordinance regulation or special legal provision were enacted for imposing log ban. The Forest Department is the main institution entrusted with the administration of major parts of the forest areas. As per the Sri Lankan customs website, Export Control License is required for *Timber, i.e., Wood (including logs and sawn timber) classified under H.S. Chapter 44 excluding coconut shell charcoal, household utensils of wood and rubber wood.*
351. The Authority took note of the website information of the leading exporter of the subject goods from Sri Lanka, M/s Merbok MDF Lanka (Pvt) Ltd, which states *"All wood processing industries are reliant on forest resources, either directly or indirectly. Forest resources in the form of wood fiber provide the basic raw material for the manufacturing of MDF. Merbok utilises waste wood, sawmill waste and residual plantation logs that are harvested and replanted cyclically."* Authority also found that Merbok is also engaged in its own plantation program through its highly successful small holder tree-planting program. Particular attention has been paid to meeting and exceeding stringent environmental regulations set by authorities.
352. The Authority notes that while, such export control (and other export restrictions) may somewhat curtail over-exploitation of Sri Lanka's forests but also depress the domestic prices

of logs, thereby assisting downstream processors of such products which leads to subsidization.

353. The Authority further notes that the Government of Sri Lanka through the imposition of export control leads to low priced inputs (logs/wood) to companies in the downstream industries. The export control which has induced log suppliers to sell logs domestically at suppressed prices has benefited Sri Lankan downstream wood processing industries.

354. The program provides a financial contribution in the form of goods at less than adequate remuneration and a benefit is thereby conferred. The program is also specific since it benefits those downstream industries that use logs/wood as their primary raw material. Hence, the program is de facto available only to a limited number of industries. Therefore, the Authority holds this program as countervailable.

355. However, since none of the producers/exporters of subject goods from the subject country have responded, hence the Authority has quantified the subsidy margin under this program on the basis of facts available.

Program No. 8: Electricity at Less Than Adequate Remuneration

Submissions by the Petitioners

356. The petitioners submitted that the electricity is provided in Sri Lanka at less than adequate remuneration.

Submissions by Government of Sri Lanka /other interested parties

357. The Government of Sri Lanka has not made any submissions on the allegation of electricity at less than adequate remuneration.

Examination by the Authority

358. During the course of investigation, the Authority has come across the Electricity provided at LTAR, as per the allegation submitted by applicants in their submissions. The Authority sought requisite information in form of additional questionnaire from the interested parties.

359. The Department of Electrical Undertakings was established in 1926 by the government for electricity generation and transmission in Sri Lanka. The Ceylon Electricity Board (CEB) was later established in 1969 by an act of parliament to be responsible for the generation, transmission and distribution of electricity in the country. Later in 1983, the government established the Lanka Electricity Company Limited (LECO) to undertake electricity distribution in the outer suburbs of Colombo and in selected areas in the western and southern parts of the country. The Electricity Act of 2009 paved the way for the effective regulation of the sector by the Public Utilities Commission of Sri Lanka (PUCSL).

360. At present, the CEB and independent power producers are involved in the generation of electricity. While the CEB is the main system operator of the country, the power generated

by the independent power producers is also procured by the CEB under purchase agreements. Hydro power plants and coal power plants are the major contributors to electricity generation in Sri Lanka. Small hydro, wind other Non-Conventional Renewable Energy (NCRE) power plants also contribute to the electricity generation. Thermal power contribution to the national electricity supply has been higher than that of hydro power.

361. As per the Electricity law 2009, Section 5 (2) (d)- pricing policy is determined by the Minister of Sri Lanka. CEB is the main system operator of the country, the power generated by the independent power producers is also procured by the CEB under purchase agreements. As per publicly available information industrial tariff rate in Sri Lanka is subsidized and is below the market prices.
362. The Authority notes that the Ministry of Power and Energy has vested its authority in its affiliated institutes namely Ceylon Electricity Board and Lanka Electricity Company Limited (LECO). LECO is a government owned and controlled utility of Sri Lanka that takes care of the general energy facilities of the island. The Ministry of Power, Energy & Business Development is the responsible ministry above the LECO. The Government has vested its powers to exercise its functions based on formal indicia of government control and it is seen that it has been exercised in a meaningful way, hence these are public bodies. Hence, the Authority finds that the electricity sector in Sri Lanka is distorted and not based on market principles which enables the producers of the PUC to procure electricity at less than adequate remuneration. Hence, the Authority notes that countervailing duty should be imposed against the responding producers/exporters under this program.
363. However, since none of the producers/exporters of subject goods from the subject country have responded, hence the Authority has quantified the subsidy margin under this program on the basis of facts available.

Summary of Subsidy programs from Sri Lanka

364. Since none of the producer/exporter from Sri Lanka has filed a questionnaire response, the Authority has determined the countervailing duty for all the producers/exporters of the subject goods from Sri Lanka based on facts available.

SN	Program No.	Name of the Schemes	Subsidy Margin %	Range %
1	Program No 2	Exemption of Import Duty	***%	0-10
2	Program No 6 & 7	Provision for standing timber at LTAR	***%	0-10
3	Program No 13	Provision for Electricity at LTAR	***%	0-10
		Total Subsidy	***%	10-20

Thailand

Program No. 1: Exemption/Reduction of Import Duties on Machinery

Submission by the Petitioners

365. The petitioners submitted that the said program is administered by the Board of Investment (“BOI”). Sections 28 and 29 of Investment Promotion Act, 2002 (IPA) and the guide to Board of Investment, 2018 grants an exemption/reduction on import duty applicable on imported machinery. The benefit provided is such that it would flow down to the PUC. Money is fungible and therefore the company can decide to use the benefit on any of its business segments. The program provides a financial contribution in the form of revenue foregone that is otherwise due and a benefit is thereby conferred. The program is specific because it is available only to a limited number of enterprises that hold a promotion certificate issued under the same legislation on meeting all the eligibility criteria provided thereunder. The investment project should also fall within the list of activities eligible for investment promotion.
366. The program was previously examined by the Authority in the Final Findings of anti-subsidy investigation on imports of “Continuous Cast Copper Wire Rods” from Indonesia, Malaysia, Thailand, and Vietnam and found countervailable. The same is requested to be upheld in the instant case.
367. Several responding exporters including M/s Vanachai Group Public Company Limited, M/s Vanachai Panel Industries Co. Ltd., M/s Metro MDF Co. Ltd., M/s Advance Fiber Co. Ltd., M/s Wisewoods Co. Ltd., M/s Panel Plus MDF Co. Ltd., M/s S. Kijchai Enterprise Public Company Limited, and Agro Fiber Co. Ltd. have received Investment Promotion Certificates from the BOI and hence eligible to avail the program. Despite the same, they have not provided reasons for non-availment. Moreover, M/s Panel Plus Co. Ltd., M/s S. Kijchai Enterprise, M/s Advance Fiber Co. Ltd., and M/s Vanachai Panel Industries Co. Ltd. have all expanded capacities or added new plants in the AUL period. Hence, they should have availed benefit under the said program.

Submissions by Government of Thailand/other interested parties

368. The Investment Promotion Act, 1977 (IPA), enacted by the Government of Thailand, created the investment promotion program and authorized the BOI to grant investment promotion incentives, including exemption for payment of import duties on machinery used in BOI-promoted projects under Section 28. The section provides exemption from payment of import duties on machinery under approved investment projects. Under the new investment promotion scheme introduced by the BOI in January 2015, the incentive package is granted according to investment activity, instead of investment zone. The change in 2015 does not affect the incentive package any company, including the companies under investigation, receives under the zoning system prior to 2015. The eligibility to receive the BOI incentives is not specific as it is not limited to certain industries or certain enterprises. The benefit is neither provided on the import of machinery for the production of export goods nor on the use of domestic goods over imported ones. The program should be examined on the facts and circumstances of each case. A blanket application of the previous finding in continuous copper final finding will be a violation of the principles of natural justice.

369. The Authority has not examined in terms of SCM Agreement there is no industry or market segment excluded from the scope of the program or not eligible to seek approval of BOI. The program is not specific.
370. M/s Metro MDF Co. Ltd. and M/s Advance Fibre Co. Ltd. submitted that the exemption is only granted for import of machinery not assembled in Thailand. Further, Panel Plus MDF submitted that the benefit under the program is provided to the company as a whole and not specific to the PUC.
371. It has been submitted that as per the WTO Panel Report in Canada – Measures Affecting the Export of Civilian Aircraft, the benefit in a CVD investigation should be examined from the perspective of the recipient. The WTO Panel Report in EC – Measures Affecting Trade in Large Civil Aircraft is also relied on. Not countervailable as per ASCM and CVD Rules. The benefit for Vanachai Group is nil since the machines have completed their depreciation cycle before the POI.

Examination by the Authority

372. The Authority notes that Investment Promotion Act, 2002 (the Act) provides for certain rights and benefits to promoted entities/projects/activities (Investment Promotion Package Scheme). Section 16 of the Act prescribes that the Board of Investment (BOI) will make an announcement designating the types and sizes of investment activity eligible for benefit specified under the Act.
373. Section 28 of the Investment Promotion Act, 2002 provides an exemption from payment of import duties on machinery under approved investment projects. Section 30 of the Act provides for reduction (not exceeding ninety percent) of import duty on raw materials and not for exemption/ reduction of import duty on machinery. The program provides for a financial contribution in the form of revenue foregone which is otherwise due and a benefit is thereby conferred. Subsidy is also specific because it is limited to promoted enterprise carrying out promoted activity. Therefore, Authority holds this program as countervailable.
374. The Authority notes that the Questionnaire Responses filed by Metro MDF Co. Ltd., Wisewoods, and S. Kijchai show that benefit was availed by them under the program. The Authority holds that countervailing duty should be imposed against aforementioned producers/exporters under this program. None of the other responding producers/exporters were found to have availed the benefit under the program.
375. The Authority has determined the subsidy margin based on the information provided in the records submitted by the responding producers/exporters. The subsidy margin thereby calculated is provided in the table below.

Program No. 2: Exemption of Import Duty on Raw Material Imported for use in Production for Export

Submission by the Petitioners

376. The petitioners submitted that the said program is administered by the Board of Investment ("BOI"), Section 36 of Investment Promotion Act, 2002 (IPA) and the guide to Board of Investment, 2018 grants an exemption on import duties applicable on (i) raw and essential materials imported for use specifically in producing, mixing, or assembling products or commodities for export, and (ii) items imported for re-export. The program provides a financial contribution in the form of revenue foregone that is otherwise due and a benefit is thereby conferred. The program is specific because it is available only to a limited number of enterprises that hold a promotion certificate issued under the same legislation on meeting all the eligibility criteria provided thereunder. Furthermore, it is also export contingent and hence, deemed specific.
377. The USDOC in the Final Affirmative Determination in the CVD investigation on imports of Certain Hot-Rolled Carbon Steel Flat Products from Thailand found all programs pertaining to the Investment Promotion Act, 1977 administered by the Board of Investments to be countervailable. The program was previously examined by the Authority in the Final Findings of anti-subsidy investigation on imports of "Continuous Cast Copper Wire Rods" from Indonesia, Malaysia, Thailand, and Vietnam and found countervailable. The same is requested to be upheld in the instant case. The Authority had found in the said investigation that the Government of Thailand could not provide any explanation or evidence to show how a mechanism operates to ensure no excess benefit is provided under the program. A previous finding of the USDOC is not binding on the DGTR. The Authority may diverge based on their factual conclusions.
378. Several responding exporters including M/s Vanachai Group Public Company Limited, M/s Vanachai Panel Industries Co. Ltd., M/s Metro MDF Co. Ltd., M/s Advance Fiber Co. Ltd., M/s Wisewoods Co. Ltd., Panel Plus MDF Co. Ltd., M/s S. Kijchai Enterprise Public Company Limited, and M/s AgroFiber Co. Ltd. have received Investment Promotion Certificates from the BOI and hence eligible to avail the program. Despite the same, they have not provided reasons for non-availment.

Submissions by Government of Thailand/other interested parties

379. The Investment Promotion Act, 1977 (IPA), enacted by the Government of Thailand, created the investment promotion program and authorized the BOI to grant investment promotion incentives, including the following special rights and benefits under section 36: (1) Exemption of import duties on the raw and essential materials imported for use specifically in producing, mixing, or assembling products or commodities for export; and (2) Exemption of import duties on items which the promoted person imports for re-export.
380. The purpose of this program is to facilitate companies that are entitled to receive benefits under Section 36 by exempting import duty on raw or essential materials used in BOI-promoted projects. Under the new investment promotion scheme introduced by the BOI in January 2015, the incentive package is granted according to investment activity, instead of investment zone. The change in 2015 does not affect the incentive package any company, including the companies under investigation, receives under the zoning system prior to 2015. The eligibility to receive the BOI incentives is not specific as it is not limited to certain

industries or certain enterprises. It is neither contingent upon export performance nor the use of domestic goods.

381. BOI has an effective system in place in order to ensure that the import quantity of the raw or essential materials are not exceeding the revolving maximum stock and to ensure that the companies do export those imported raw or essential materials as finished goods.
382. The exemption of import duty for the purpose of exports is permitted by the ASCM under Article 1. The BOI has an effective system to ensure no excess benefit is provided. The same observation was made by the USDOC in the CVD investigation on Glycine from Thailand. Hence, the benefit provided under the program is not countervailable. The Authority incorrectly countervailed the program in Copper case. Only the excessive benefit provided under the program, if any, can be countervailed as per the ASCM. Further, the program has not been availed by any of the responding producers/exporters. The program should be examined on the facts and circumstances of each case. A blanket application of the previous finding in continuous copper final finding will be a violation of the principles of natural justice.

Examination by the Authority

383. The Authority notes that Section 36 of the Investment Promotion Act, 2002 provides for exemption from import duty on raw or essential materials used in BOI-promoted projects. Under this subsidy program, the products produced using duty free inputs are required to be re-exported or exported after undergoing mixing, assembling and production activity. This subsidy program is a part of investment promotion package scheme.
384. Government of Thailand has submitted that BOI has an effective system to ensure that companies export the imported raw material as finished goods and there is no excess benefit to the producer/exporters carrying out the promoted activity.
385. The Authority notes that M/s Wisewoods Co. Ltd. vide its EQR submission had admitted availment of subsidy on the raw materials used in the production of PUC. The Authority accordingly quantified the same for M/s Wisewoods Co. Ltd. However, through a later submission, the company informed that they had inadvertently reported benefit for import of raw materials while filing the questionnaire response, which was in fact never availed by them. To substantiate the same, they have submitted documents which show that import of raw materials by M/s Wisewoods Co. Ltd. were subjected to 'NIL' rate of duty and therefore, the Authority notes that M/s Wisewoods Co. Ltd. did not receive any subsidy and /or benefit for importing raw material.
386. The exemption of import duty for the purpose of exports is permitted by the ASCM under Article 1. However, only the excessive benefit provided under the program, if any, can be countervailed as per the ASCM. Government of Thailand has submitted that BOI has an effective system to ensure that companies export the imported raw material as finished goods and there is no excess benefit to the producer/exporters carrying out the promoted activity. Government of Thailand has not provided any explanation and has not provided any evidence to show how the mechanism operates under the BOI scheme to ensure that there is no excess

benefit and that raw material that is imported duty free is used in the exported product. In absence of any evidence to show that the program provides for permissible tax remission, it is determined that the subsidy program provides financial contribution in the form of revenue foregone, which is otherwise due and a benefit is thereby conferred. Subsidy is also specific because it is contingent on export and is also limited to promoted enterprise carrying out promoted activity. Hence, the Authority holds the program as countervailable.

387. Since none of the responding exporters have submitted any evidence regarding excess availment of the benefit under the said program the program. Accordingly, the Authority has decided not to impose any countervailing duty against the responding exporters under this scheme.

Program No. 3: Reduction of Import Duty for Raw or Essential Materials

Submission by the Petitioners

388. The petitioners submitted that the said program is administered by the Board of Investment ("BOI"). Section 30 of Investment Promotion Act, 2002 (IPA) and the guide to Board of Investment, 2018 grants a reduction of up to 90% on import duty applicable on raw or essential materials for the purpose of producing, mixing, or assembling in a promoted activity. The program provides a financial contribution in the form of revenue foregone that is otherwise due and a benefit is thereby conferred. The program is specific because it is available only to a limited number of enterprises that hold a promotion certificate issued under the same legislation on meeting all the eligibility criteria provided thereunder.
389. The program was previously examined by the Authority in the Final Findings of anti-subsidy investigation on imports of "Continuous Cast Copper Wire Rods" from Indonesia, Malaysia, Thailand, and Vietnam and found countervailable. The same is requested to be upheld in the instant case.
390. Several responding exporters including Vanachai Group Public Company Limited, Vanachai Panel Industries Co. Ltd., Metro MDF Co. Ltd., Advance Fiber Co. Ltd., Wisewoods Co. Ltd., Panel Plus MDF Co. Ltd., S. Kijchai Enterprise Public Company Limited, and AgroFiber Co. Ltd. have received Investment Promotion Certificates from the BOI and hence eligible to avail the program. Despite the same, they have not provided reasons for non-availment.

Submissions by Government of Thailand/other interested parties

391. The Investment Promotion Act, 1977 (IPA), enacted by the Government of Thailand, created the investment promotion program and authorized the BOI to grant investment promotion incentives, including reduction of import duties not exceeding ninety percent of the normal rate on raw or essential materials imported for the purpose of producing, mixing, or assembling in the promoted projects, each time for a period not more than one year from the date prescribed by the BOI provided that such raw or essential materials are not being

produced or originated domestically in sufficient quantity to be acquired for use in such projects.

392. The purpose of this program is to facilitate companies that are entitled to receive benefits under Section 30 by reducing import duty on raw materials or essential materials used in BOI-promoted projects. The GOT submitted that the program provides a benefit on raw materials or essential materials imported for producing goods sold in the domestic market. Thus, the program can cause no injury to the Indian domestic industry and hence, irrelevant to the investigation. The eligibility for the program is not specific as it is made available on a voluntary basis and entities that wish to avail the benefit shall apply for the same. Moreover, none of the companies under investigation received the benefit under Section 30.
393. It has been submitted that no producer from Thailand received financial contribution/benefit under this program. The program should be examined on the facts and circumstances of each case. A blanket application of the previous finding in continuous copper will be violation of the principles of natural justice.

Examination by the Authority

394. The Authority notes that Section 30 of the Investment Promotion Act, 2002 provides for reduction of import duties not exceeding ninety percent of the normal rate on raw materials or essential materials which are imported into Thailand for the purpose of producing, mixing, or assembling in the promoted projects, each time for a period not more than one year from the date prescribed by the BOI provided that such raw materials or essential materials comparable in quality are not being produced or originated within Thailand in sufficient quantity to be acquired for used in such project. The subsidy program is part of the investment promotion incentive package.
395. The subsidy program provides financial contribution in the form of revenue foregone, which is otherwise due and a benefit is thereby conferred. Subsidy is also specific because it is limited to promoted enterprise carrying out promoted activity. The Authority, therefore, holds this program as countervailable.
396. However, since none of the responding producers/exporters have availed benefit under this program, hence it is noted that no countervailing duty should be imposed against them under this program.

Program No. 4: Exemption of Corporate Income Tax for BOI-Promoted Activities

Submission by the Petitioners

397. The petitioners submitted that the said program is administered by the Board of Investment ("BOI"). Section 31 of Investment Promotion Act, 2002 (IPA) and the guide to Board of Investment, 2018 grants an exemption of corporate income tax levied on net profit earned from a promoted activity for a period not more than eight years. The program provides a financial contribution in the form of revenue foregone that is otherwise due and a benefit is thereby conferred. In case a company is suffering losses, the program provides for carry

forward of the losses and hence, benefit can be availed at a subsequent period. The program is specific because it is available only to a limited number of enterprises that hold a promotion certificate issued under the same legislation on meeting all the eligibility criteria provided thereunder.

398. The program was previously examined by the Authority in the Final Findings of anti-subsidy investigation on imports of "Continuous Cast Copper Wire Rods" from Indonesia, Malaysia, Thailand, and Vietnam and found countervailable. The same is requested to be upheld in the instant case.
399. Several responding exporters including Vanachai Group Public Company Limited, Vanachai Panel Industries Co. Ltd., Metro MDF Co. Ltd., Advance Fiber Co. Ltd., Wisewoods Co. Ltd., Panel Plus MDF Co. Ltd., S. Kijchai Enterprise Public Company Limited, and Agro Fiber Co. Ltd. have received Investment Promotion Certificates from the BOI and hence eligible to avail the program. Despite the same, they have not provided reasons for non-availment.

Submissions by Government of Thailand/other interested parties

400. The Investment Promotion Act, 1977 (IPA), enacted by the Government of Thailand, created the investment promotion program and authorized the BOI to grant investment promotion incentives, including exemption of corporate income tax on the net profit derived from the BOI-promoted projects for a period of not more than eight years from the date income is first derived from such activity under Section 31. In case loss is incurred, the BOI may grant permission to deduct such annual loss from the net profits accrued after the expiration of the period of exemption for a period of not more than five years from the expiry date of such period. Under the new investment promotion scheme introduced by the BOI in January 2015, the incentive package is granted according to investment activity, instead of investment zone. The change in 2015 does not affect the incentive package any company, including the companies under investigation, receives under the zoning system prior to 2015. The eligibility for the program is not specific as it is made available on a voluntary basis and entities that wish to avail the benefit shall apply for the same. The program should be examined on the facts and circumstances of each case. A blanket application of the previous finding in continuous copper final finding will be a violation of the principles of natural justice. Vanachai Group has not availed Program No. 4 for Thailand.
401. Metro MDF Co. Ltd. and Advance Fibre Co. Ltd. submitted that the program is not specific since the eligibility criterion is wide. It has been submitted by Panel Plus MDF that they incurred losses in BOI promoted activities and the program was not utilized. M/s Vanachai Group Public Company Ltd. has also submitted that out of their three certificates of BOI, two of them have expired long back in 1998 and 1999 respectively whereas one of the BOI certificates will expire in 2022. In addition to it, the company has also submitted that since they have incurred losses during the POI for the BOI promoted activity, hence is not eligible for Corporate income tax reduction under the said scheme.

Examination by the Authority

402. The Authority notes that the subsidy program is one of the benefits provided under the investment promotion package scheme. As per Section 31 of the Investment Promotion Act, 2002 provides exemption from corporate income tax to eligible entities. Exemption from income tax is not available for more than eight years from the date income is first derived from such activity. Further in the case where a loss has been incurred during the eligible period in which exemption of corporate income tax was available, the BOI is empowered grant permission to the promoted person to deduct such annual loss from the net profits accrued after the expiration of the eligible period of exemption of corporate income tax for a period of not more than five years from the expiry date of such period. The promoted person may choose to deduct such loss from the net profit of any one year or several years.
403. The Authority notes that the program provides a financial contribution in the form of revenue foregone which is otherwise due and a benefit is thereby conferred. The program is also specific as it is limited to promoted enterprise carrying out promoted activity. Therefore, Authority holds this program as countervailable.
404. The Authority notes that the Questionnaire Response filed by M/s Wisewoods Co. Ltd. shows that benefit was availed by them under this program and has provided information with regard to amount of subsidy received during POI.
405. It is also noted that the records submitted by M/s Metro MDF disclose that the benefit under the program was availed by them in the year 2016 but was utilized during the POI.
406. As submitted by M/s Vanachai Group Public Company Ltd, the Authority notes that the company was issued three BOI certificates out of which two of them have expired in 1998 and 1999 respectively whereas one of the BOI certificates will expire in 2022. In addition to it, the company has also submitted that since they have incurred losses during the POI for the BOI promoted activity, hence is not eligible for corporate income tax reduction under the said scheme. However, as per the records submitted by the company, the Authority notes that they have received income tax exemption though not under BOI certificate.
407. Similarly, the records submitted by M/s Green Fiber Company Ltd. show that they have received income tax exemption though not under BOI certificate.
408. The Authority notes that M/s Advance Fiber has not utilized the benefits granted under the said scheme as the BOI certificate has already expired and no additional income tax exemption was received by the company during the POI.
409. Furthermore, the records submitted by Vanachai Panel Industries Company Limited along with the Questionnaire Response shows that benefit was not availed by the responding exporter under the said program.
410. The Authority further notes that as per records submitted, M/s Panel Plus Co. Ltd., M/s Panel Plus MDF Company Ltd., M/s Agro Fiber Company Ltd. and have not availed the benefit under this scheme.

411. In view of the above, the Authority has determined the subsidy margin based on the information provided in the records submitted by the responding producers/exporters. The subsidy margin thereby calculated is provided in the table below.

Program No. 5: Reduction of Income tax in Investment Promotion Zones

Submission by the Petitioners

412. The petitioners submitted that the said program is administered by the Board of Investment (“BOI”). Section 35 of Investment Promotion Act, 2002 (IPA) and the guide to Board of Investment, 2018 grants a 50% reduction of corporate income tax to enterprises engaged in a promoted activity and located in a promoted location/zone for a period not more than five years, after the period provided under section 31. The program provides a financial contribution in the form of revenue foregone that is otherwise due and a benefit is thereby conferred. The program is specific because it is available only to a limited number of enterprises that hold a promotion certificate issued under the same legislation on meeting all the eligibility criteria provided thereunder. Furthermore, it is also region specific because the benefit is available only to enterprises located in promoted locations/zones.

413. The program was previously examined by the Authority in the Final Findings of anti-subsidy investigation on imports of “Continuous Cast Copper Wire Rods” from Indonesia, Malaysia, Thailand, and Vietnam and found countervailable. The same is requested to be upheld in the instant case.

414. Several responding exporters including Vanachai Group Public Company Limited, Vanachai Panel Industries Co. Ltd., Metro MDF Co. Ltd., Advance Fiber Co. Ltd., Wisewoods Co. Ltd., Panel Plus MDF Co. Ltd., S. Kijchai Enterprise Public Company Limited, and Agro Fiber Co. Ltd. have received Investment Promotion Certificates from the BOI and hence eligible to avail the program. Despite the same, they have not provided reasons for non-availment.

Submissions by Government of Thailand/other interested parties

415. The Investment Promotion Act, 1977 (IPA), enacted by the Government of Thailand, created the investment promotion program and authorized the BOI to grant investment promotion incentives, including a 50 percent reduction of the corporate income tax on the net profit derived from the promoted activity under Section 35(1). The incentive is provided for a period of not more than five years, commencing from the expiry date referred to under paragraph one or two of Section 31, or from the date income is first derived from the promoted activity in the case where the promoted person is not granted exemption of corporate income tax.

416. The purpose of the program is to facilitate companies that are entitled to receive benefit under Section 35(1) by granting 50 percent income tax deductions in certain locations or zones. The eligibility to receive the BOI incentives is not specific as it is not limited to certain industries or certain enterprises. It is neither contingent upon export performance nor the use

of domestic goods. None of the companies under investigation utilized the benefit under Section 35(1) during the POI.

417. It has been submitted that no producer from Thailand received financial contribution/benefit under this program. The program should be examined on the facts and circumstances of each case. A blanket application of the previous finding in continuous copper final finding will be a violation of the principles of natural justice.

Examination by the Authority

418. The Authority notes that 50% reduction is available from normal rate of corporate income tax on the net profit derived from promoted activity. Exemption of corporate income tax have already been countervailed by the Authority in other programs. Therefore, Authority notes that no additional countervailing duty should be imposed against the responding exporters under this subsidy program.

Program No. 6: Additional 25 percent deduction of the Cost of Installation or Construction of Facilities

Submission by the Petitioners

419. The petitioners submitted that the said program is administered by the Board of Investment ("BOI"). Section 35 of Investment Promotion Act, 2002 (IPA) and the guide to Board of Investment, 2018 grants a deduction of 25% of the cost incurred for the installation or construction of facilities used for a promoted activity from the taxable income of the company. The program provides a financial contribution in the form of revenue foregone that is otherwise due and a benefit is thereby conferred. The program is specific because it is available only to a limited number of enterprises that hold a promotion certificate issued under the same legislation on meeting all the eligibility criteria provided thereunder. Furthermore, it is also region specific because the benefit is available only to enterprises located in promoted locations/zones and carrying out promoted activity.
420. The program was previously examined by the Authority in the Final Findings of anti-subsidy investigation on imports of "Continuous Cast Copper Wire Rods" from Indonesia, Malaysia, Thailand, and Vietnam and found countervailable. The same is requested to be upheld in the instant case.
421. Several responding exporters including Vanachai Group Public Company Limited, Vanachai Panel Industries Co. Ltd., Metro MDF Co. Ltd., Advance Fiber Co. Ltd., Wisewoods Co. Ltd., Panel Plus MDF Co. Ltd., S. Kijchai Enterprise Public Company Limited, and Agro Fiber Co. Ltd. have received Investment Promotion Certificates from the BOI and hence eligible to avail the program. Despite the same, they have not provided reasons for non-availment.

Submissions by Government of Thailand/other interested parties

422. The Investment Promotion Act, 1977 (IPA), enacted by the Government of Thailand, created the investment promotion program and authorized the BOI to grant investment promotion incentives, including permission to deduct from the net profit an amount not exceeding 25 percent of the cost of installation or construction of facilities used in the promoted activity under Section 35(3). In addition to normal depreciation, deductions from the net profit of any one year or several years within 10 years from the date income is first derived from the promoted activity may be made. Under the new investment promotion scheme introduced by the BOI in January 2015, the incentive package is granted according to investment activity, instead of investment zone. The change in 2015 does not affect the incentive package any company, including the companies under investigation, receives under the zoning system prior to 2015. The eligibility to receive the BOI incentives is not specific as it is not limited to certain industries or certain enterprises. It is neither contingent upon export performance nor the use of domestic goods.
423. Metro MDF Co. Ltd. and Advance Fibre Co. Ltd. submitted that the program is not limited to any particular enterprise or industry and is available to a wide range of economic activity and hence, is not specific. The program should be examined on the facts and circumstances of each case. A blanket application of the previous finding in continuous copper final finding will be a violation of the principles of natural justice.

Examination by the Authority

424. The Authority notes that section 35(3) of the Investment Promotion Act, 2002 provides for the reduced income tax through deduction from net profit of amount not exceeding 25% of cost of installation or construction of facilities used in the promoted activity. The benefit under this subsidy program is equal to the difference between the amount of tax that would have been payable in absence of such deduction and the amount of income tax actually paid. The subsidy program is part of the investment promotion incentive package.
425. The subsidy program provides financial contribution in the form of revenue foregone, which is otherwise due and benefit is thereby conferred. Subsidy is also specific because it is limited to promoted enterprise carrying out promoted activity. Authority has already noted that countervailing duty should be imposed against subsidy program granting exemption from income tax. Therefore, Authority notes that no additional countervailing duty should be imposed against the responding exporters under this subsidy program.

Program No. 7: Double Deduction available for Companies in Investment Promotion Zones

Submission by the Petitioners

426. The petitioners submitted that the said program is administered by the Board of Investment ("BOI"). Section 35 of Investment Promotion Act, 2002 (IPA) and the guide to Board of Investment, 2018 grants a deduction on income tax, an amount double the cost incurred for transportation, electricity and water supply with respect to a promoted activity located in a promoted location/zone. The program provides a financial contribution in the

form of revenue foregone that is otherwise due and a benefit is thereby conferred. The program is specific because it is available only to a limited number of enterprises that hold a promotion certificate issued under the same legislation on meeting all the eligibility criteria provided thereunder. Furthermore, it is also region specific because the benefit is available only to enterprises located in promoted locations/zones.

427. The program was previously examined by the Authority in the Final Findings of anti-subsidy investigation on imports of “Continuous Cast Copper Wire Rods” from Indonesia, Malaysia, Thailand, and Vietnam and found countervailable. The same is requested to be upheld in the instant case.
428. Several responding exporters including Vanachai Group Public Company Limited, Vanachai Panel Industries Co. Ltd., Metro MDF Co. Ltd., Advance Fiber Co. Ltd., Wisewoods Co. Ltd., Panel Plus MDF Co. Ltd., S. Kijchai Enterprise Public Company Limited, and Agro Fiber Co. Ltd. have received Investment Promotion Certificates from the BOI and hence eligible to avail the program. Despite the same, they have not provided reasons for non-availment.

Submissions by Government of Thailand/other interested parties

429. The Investment Promotion Act, 1977 (IPA), enacted by the Government of Thailand, created the investment promotion program and authorized the BOI to grant investment promotion incentives, including permission to deduct for the purpose of assessing corporate income tax an amount double the costs of transportation, electricity, and water supply incurred by the promoted person in the operation of the promoted activity under Section 35(2). The eligibility to receive the BOI incentives is not specific as it is not limited to certain industries or certain enterprises. It is neither contingent upon export performance nor the use of domestic goods. None of the companies under investigation receive the benefit under Section 35(2).
430. The programs administered by the BOI are not specific as per the ASCM. They are available broadly throughout the economy and not limited to a particular entity, geographical region, or segment of the industry. The WTO AB Reports in US – Upland Cotton and US – Anti-Dumping and Countervailing Duties (China) are relied on. The program should be examined on the facts and circumstances of each case. A blanket application of the previous finding in continuous copper final finding will be a violation of the principles of natural justice.

Examination by the Authority

431. The Authority notes that under this program, benefit is provided in the form of double deduction of transport, electricity and water expenses for computing total income for the purpose of income tax. This subsidy program is part of the investment promotion incentive package.
432. The Authority notes that the subsidy program provides financial contribution in the form of revenue foregone, which is otherwise due and the benefit is thereby conferred. The benefit under this subsidy program is equal to the difference between the amount of tax that would

have been payable in absence of double deduction and the amount of income tax actually paid. The subsidy program is also specific because it is limited to promoted enterprise carrying out promoted activity. Authority has already noted that countervailing duty should be imposed against subsidy program granting exemption from income tax. Therefore, Authority notes that no additional countervailing duty should be imposed against the responding exporters under this subsidy program.

Program No. 8: Exemption of Income Tax – Dividends

Submission by the Petitioners

433. The petitioners submitted that the said program is administered by the Board of Investment (“BOI”), Section 34 of Investment Promotion Act, 2002 (IPA) and the guide to Board of Investment, 2018 grants an exemption on income tax levied on dividends derived from a promoted activity is granted to juristic persons. Hence, the benefit can be availed by the companies under investigation and ultimately injure the domestic industry. The program provides a financial contribution in the form of revenue foregone that is otherwise due and a benefit is thereby conferred. The program is specific because it is available only to a limited number of enterprises that hold a promotion certificate issued under the same legislation on meeting all the eligibility criteria provided thereunder and derives dividend income from promoted activities.

434. Several responding exporters including Vanachai Group Public Company Limited, Vanachai Panel Industries Co. Ltd., Metro MDF Co. Ltd., Advance Fiber Co. Ltd., Wisewoods Co. Ltd., Panel Plus MDF Co. Ltd., S. Kijchai Enterprise Public Company Limited, and Agro Fiber Co. Ltd. have received Investment Promotion Certificates from the BOI and hence eligible to avail the program. Despite the same, they have not provided reasons for non-availment. M/s Advance Fiber Co. Ltd., M/s Metro MDF Co. Ltd., M/s Wisewoods Co. Ltd., and M/s Panel Plus MDF Co. Ltd. have themselves disclosed that they are eligible to avail the benefit under the program.

Submissions by Government of Thailand/other interested parties

435. The Investment Promotion Act, 1977 (IPA), enacted by the Government of Thailand, created the investment promotion program and authorized the BOI to grant exemption of income tax on dividends derived from the promoted activity under Section 34. As Section 34 benefits shareholders of the company, not the company itself, it does not cause injury to Indian domestic market in any way. Therefore, the benefit of Section 34 is not relevant to this investigation. Under the new investment promotion scheme introduced by the BOI in January 2015, the incentive package is granted according to investment activity, instead of investment zone. The change in 2015 does not affect the incentive package any company, including the companies under investigation, receives under the zoning system prior to 2015. The eligibility to receive the BOI incentives are not specific as it is not limited to certain industries or certain enterprises. It is neither contingent upon export performance nor the use of domestic goods. M/s Metro MDF Co. Ltd. and M/s Advance Fibre Co. Ltd. submitted that benefit, if any, is not granted to the company but the shareholders of the company. It has been submitted by

M/s Panel Plus MDF that the program benefits the shareholders of the company and not the company itself. M/s Panel Plus MDF did not benefit in the POI since the BOI promoted activity was in losses and dividends were NIL. The Thai exporters have either not availed any countervailable subsidy or the amount of subsidy, if any, is below *de minimis*. The responding producers/exporters have not availed any benefit under the said scheme.

Examination by the Authority

436. The Authority notes that section 34 of the Investment Promotion Act, 2002 authorizes the BOI to grant exemption of income tax on dividends derived from the promoted activity. According to the relevant legal provision, the benefit is provided to juristic persons and hence, to shareholder companies. Contrary to the submissions by the Government of Thailand that the program cannot injure the domestic industry, since the benefit is enjoyed by shareholders/individuals, any of the companies under investigation can avail the benefit under the program. The Authority holds the said program as countervailable. However, since none of the responding producers/exporters have availed benefit under this program, hence it is noted that no countervailing duty should be imposed against them under this program.

Program No. 9: VAT Exemption on Exports

Submission by the Petitioners

437. The petitioners submitted that the said program is administered by the Government of Thailand. Section 80 of the Revenue Code, 2016 grants a zero rate on VAT on export of goods and services and the supply of goods and services between bonded warehouses or enterprises located in free zones. The program provides a financial contribution in the form of revenue foregone that is otherwise due and a benefit is thereby conferred. The program is export contingent and hence, deemed specific. Furthermore, it is also region specific.

Submissions by Government of Thailand/other interested parties

438. According to the Section 80/1 of the Revenue code, the following businesses among a few other qualifying ones shall use the zero rate value added tax calculation: (1) export of goods which is not exempt from value added tax under Section 81(3); (2) sale of goods or provision of services between bonded warehouses, between business persons which carrying on business in Customs free zone whether they be in the same zone or not, or between bonded warehouses and business person carrying on its business in Customs free zone prescribed by the Director-General.

439. The Government of Thailand also submitted that the same program was addressed by the Authority in the final finding in Anti-subsidy investigation concerning imports of "Continuous Cast Copper Wire Rods" from Indonesia, Malaysia, Thailand and Vietnam and found not countervailable.

440. It has been submitted that the program provides remission of tax on exported goods. The program is not countervailable as per the ASCM and the CTA. No duty was imposed on the same in the Copper case.

Examination by the Authority

441. It is noted that section 80 of the Revenue Code, 2016 provides for payment of value added tax by business person engaged in sales of goods or services. However, this value added tax rate is zero for certain specified enterprises.

442. It is noted that this subsidy program provides for exemption from value added tax on export of goods. The subsidy program provides for remission of tax on exported goods which is otherwise borne by the like product when destined for domestic consumption in accordance with footnote 1 of the SCM Agreement and Section 9B(b)(i) of the Customs Tariff Act. Therefore, Authority notes that no countervailing duty should be imposed against the responding exporters/producers under this subsidy program.

Program No. 10: Short Term Export Credit Insurance

Submission by the Petitioners

443. The petitioners submitted that the said program is administered by the Export-Import Bank of Thailand. The program protects the exporters' foreign receivables against non-payment risks. In case of defaults in payment, the loss is compensated as per conditions mentioned in the insurance policy. The program is extended to SMEs only. The program provides a financial contribution in the form of revenue foregone that is otherwise due since it provided insurance at a discounted premium rate and a benefit is thereby conferred. The program is export contingent and hence, deemed specific.

Submissions by Government of Thailand/other interested parties

444. Export Credit Insurance facilities protect exporter's foreign receivables against non-payment risks. In case of payment defaults caused by overseas buyers, EXIM Thailand compensate for the loss according to conditions specified in the insurance policy. The risks covered include commercial risks as well as political risks.

445. It has been submitted that no producer from Thailand received financial contribution/benefit under this program and no countervailable benefit is provided.

Examination by the Authority

446. The Authority notes that the program is administered by the Export-Import Bank of Thailand. The Export-Import Bank of Thailand (EXIM Bank) is a state-owned specialized financial institution under the Ministry of Finance's supervision established to act as the Thai government's export credit agency (ECA). It was established by the Export-Import Bank of Thailand Act, 1993 (B.E. 2536) which took effect on 7 September 1993. The EXIM Bank is the government mechanism in supporting and enhancing Thai entrepreneurs' competitiveness

in global trade and investment. The Ministry of Finance injected capital to enhance the Bank's capability to fulfill its mission as a state-run specialized financial institution with a mandate to promote and support Thai exports, imports, and investments, both domestic and overseas. In September 2009, the Ministry of Finance increased the Bank's capital which was earmarked for export promotion through export credit insurance under the Strong Thailand Scheme 2012. The service helps safeguard exporters against non-payment risk by overseas buyers, thereby boosting exporters' confidence in their business expansion in the main or emerging markets. The EXIM Bank currently follows the Master Plan 2017-2027 which was framed as a result of the Thai government's agenda to realign Thai exports to 'New Frontiers with high economic growth rates' which includes India. The Export-Import Bank of Thailand (EXIM Thailand) as the government's specialized financial institution has remained committed in pursuing its role as a key mechanism to drive Thailand's international trade and investment strategies. Export-Import Bank of Thailand continued developing the organization in line with the changing trade and investment environment with the main objective to perform as a government mechanism in supporting and enhancing Thai entrepreneurs' competitiveness in global trade and investment.

447. The Authority notes that the Exim bank is a public body entrusted with governmental functions and is vested with authority to exercise governmental functions, based on formal indicia of government control and evidence showing that it has been exercised in a meaningful way, hence it is a public body. Exim bank provides financial help in form of protecting exporter's foreign receivables against non-payments risks.
448. The program provides for financial contribution in the form of revenue forgone that is otherwise due and benefit is thereby conferred. The benefit conferred on the recipient is equivalent to the difference between the fee paid by the recipient for availing guarantee from EXIM Bank and the fee that would have been paid to any other commercial bank for such guarantee. The subsidy program is also specific because it is contingent on export. The Authority holds the said program as countervailable. However, none of the responding producers/exporters have provided any evidence regarding availment of benefit under the scheme. Hence the Authority notes that no countervailing duty should be imposed against the responding producers/exporters under this scheme.

Program No. 11: Medium- and Long-term Export credit Insurance

Submission by the Petitioners

449. The petitioners submitted that the said program is administered by the Export-Import Bank of Thailand. The program protects the exporters' foreign receivables against non-payment risks. In case of defaults in payment, the loss is compensated as per conditions mentioned in the insurance policy. The program provides a financial contribution in the form of revenue foregone that is otherwise due since it provided insurance at a discounted premium rate and a benefit is thereby conferred. The program is export contingent and hence, deemed specific.

450. The responding exporters have received loans from banks within the country at preferential rates. The lending interest rate depends upon the credit rating of the company whereby the lending bodies exercise discretion and provide preferential loans. The Authority should take cognizance of the subsidized loans and quantify the same.

Submissions by Government of Thailand/other interested parties

451. Medium and Long-term Export Credit Insurance covers against default of payment caused by commercial and political losses relating to overseas trade transactions i.e. export of goods and services including credits and loans to overseas buyers/borrowers. No loans are offered by the EXIM Bank. It has been submitted that no producer from Thailand received financial contribution/ benefit under this program. The letter submitted by the EXIM Bank specifically shows that no benefit was availed under this program by Vanachai Group or Panel Plus Group. The case is not fit for resorting to facts available when the Thai exporters have cooperated with the Authority. Rule 7(8) of the CVD Rules as per the DGTR Manual and Article 12.7 of the ASCM according to the Panel report in EC – Countervailing Measures on DRAM Chips are relied on.

452. For a loan to qualify as a subsidy, the same must originate from a government or public body and a benefit should be conferred through a lower interest rate than comparable loan in the market. No evidence regarding the same has been produced by the domestic industry. The loans taken by the Metro Group are from commercial banks and at market rates.

Examination by the Authority

453. The Authority notes that the program is administered by the Export-Import Bank of Thailand. As examined in Program no. 10 the EXIM BANK is a public body entrusted with governmental functions and is vested with authority to exercise governmental functions, based on formal indicia of government control and evidence showing that it has been exercised in a meaningful way, hence it is a public body. Exim bank provides financial help in form of protecting exporter's foreign receivables against non-payments risks.

454. The program provides for financial contribution in the form of revenue forgone that is otherwise due and benefit is thereby conferred. The benefit conferred on the recipient is equivalent to the difference between the fee paid by the recipient for availing guarantee from EXIM Bank and the fee that would have been paid to any other commercial bank for such guarantee. The subsidy program is also specific because it is contingent on export and enterprise specific since the fee chargeable would also depend on the creditworthiness of the consumer company. The Authority holds the said program as countervailable. However, none of the responding producers/exporters have provided any evidence regarding availment of benefit under the scheme. Hence, the Authority notes that no countervailing duty should be imposed against the responding producers/exporters under this scheme.

OTHER SUBSIDY- LOANS

455. However, during the course of investigation, the Authority found that the as per the information submitted by M/s Green Fiber, M/s Agro Fiber, M/s Panel Plus, M/s Panel Plus MDF, M/s Vanachai Group, and M/s Vanachai Panel, loans were received by the companies from the financial institutions operating on the directions of Central Bank at lesser interest rates in comparison to prevailing market rates. Authority has taken note of the same and found that these loans are in the nature of financial contribution in the form of revenue forgone. These loans are enterprise specific as these loans are granted on terms more favorable than the recipient could actually obtain on the market. Hence the Authority holds the said program as countervailable.

456. There is a difference between the interest rate paid to that of the normal interest rate. Hence, the Authority notes that countervailing duty should be imposed against producers/exporters M/s Green Fiber Co. Ltd., M/s Agro Fiber Co. Ltd., M/s Panel Plus Co. Ltd., M/s Panel Plus MDF Co. Ltd., M/s Vanachai Group Co. Ltd., and M/s Vanachai Panel Co. Ltd. under this program.

Program No. 12a: Provision for Raw Material (Wood) at Less Than Adequate Remuneration

Submission by the Petitioners

457. The petitioners submitted that the program is administered by the Government of Thailand. Nearly all of the harvestable forest land in Thailand is owned by the Government of Thailand and it grants logging rights to companies after charging a royalty which is not calculated based on market principles. The Government of Thailand also maintains high statutory export taxes on commodities including wood. This distorts the domestic market and makes wood which is an essential raw material to producers of the PUC at LTAR. As a result, it does not make any difference whether the raw material is procured from a state forest or private land. The prices for timber in Thailand are below international benchmark prices.

458. As per the information on the website of the responding producers/exporters from Thailand, rubber wood or eucalyptus is used as the raw material for the subject goods. For the purpose of obtaining rubberwood, the Government of Thailand together with the Forest Department has taken up increased responsibility in planting. Further, the Rubber Research Institute of Thailand and the Royal Forest Department's Forest Research Institute has collaborated for the same purpose.

459. The term 'prohibited wood' is not defined under the National Reserve Forest Act, 1971 as contended by the interested parties. However, the term "wood" is defined to include "all kinds of wood". Hence, rubberwood and other kinds of firewood fall within the scope of the Act.

Submissions by Government of Thailand/other interested parties

460. The price and supply of wood is not regulated by the GOT. Saw dust/ wood dust is used which is a waste from sawmill or wood processing plant for the production of the PUC. The

National Reserve Forest Act, 1964 was amended in 2019 and redefines 'prohibited woods' to exclude all types of wood that grow in private land or those on public land after necessary approval of the Cabinet. Rubberwood or any kind of firewood doesn't fall under the scope of 'prohibited woods' as per section 9. The Government of Thailand does not place any regulation on wood prices.

461. No benefit was received by the Metro Group as it sourced rubber wood consumed in the production of the PUC from unrelated suppliers not related or controlled by the government and grown on private plantations. Fiberboard manufacturers in Thailand are using the residue of logs, wastepaper, fiber etc. Panel Plus uses 100% rubber wood and is bought from the open market as per market price. The wood raw materials bought by the Vanachai Group are at market price traded between individual person in public. Agro Fiber and Green Fiber uses wood chips (eucalyptus chip, including bark but not exceeding 20% and size 25-40 mm) as per market forces through monthly bidding. Wisewoods procured their supply of rubber wood from domestic supplier. The prices of the same are as per market forces and faces high competition from other industries too. The determination of subsidy for LTAR program should be undertaken as per Annexure-IV of the CVD Rules.
462. The use of benchmark price based on New Zealand is objected to since no reasons have been provided for choosing the same. It contains all sorts of wood and logs, and rubber wood is not included in any of the categories included. Moreover, the Government of New Zealand controls all of the harvested forest. The export price of wood from New Zealand to India are not determined as per market forces. New Zealand wood prices cannot be compared to rubber wood at all. The Authority is required to reason the choice of benchmark in lines with the Appellate Body report in US – Carbon Steel (India). The alternative benchmarks suggested by the domestic industry are also inadequate. The adequate remuneration, if any, should be determined in light of the prevailing market conditions of the exporting country and not based on price of raw materials in any third country. The benchmark should be as per prevailing market conditions in the country of the provision. US – Coated Paper (Indonesia) is relied on.

Examination by the Authority

463. The Government of Thailand controls nearly all of Thailand's harvestable forest. Various measures taken by the government have distorted the Thai domestic market for logs to the benefit of the downstream industries that use logs.
464. The Applicants contended that the Government of Thailand controls nearly all of Thailand's harvestable forest through the National Reserve Forest Act, 1964. Section 15 of the Act states that logging in these forests shall be conducted only after obtaining a license from a competent officer under the Act. Granting of licenses including the beneficiary and period of validity of the licenses are at the discretion of the competent officer. According to the Act, the licensee is required to pay a royalty at the rate fixed by the Ministry of Natural Resources and Environment. However, according to section 5 of the Act, this royalty that is published through Ministerial Regulations from time to time cannot exceed the limit of 40 Bhat per cubic meter set forth in the schedule to the Act.

465. It is noted that the royalty charged by the relevant Ministry is discretionary and with disregard for market principles. Setting an upper limit to the royalty statutorily shows that the program aims to lower the price of timber in the domestic Thai market. The royalty charged is far less than the market rates of the timber. Hence, wood, which is the primary raw material in the fiberboard industry, is made available for procurement to the companies under investigation at rates below the market rate. Furthermore, the applicants for the license would be entities that either sell wood directly or use them as their raw material. Hence, the scope of the program is de facto limited to small number of industries.
466. The program provides a financial contribution in the form of goods at less than adequate remuneration and a benefit is thereby conferred. The program is also specific since the licenses are granted on a discretionary basis. Therefore, the Authority notes that countervailing duty should be imposed against the responding exporters under this subsidy program.
467. The Authority notes that GOT in its written submissions post the 2nd Oral Hearing have submitted that the fiberboard manufacturers are using the residue of logs, wastepaper, fiber, etc. for the manufacture of subject goods. However, in its response to the additional questionnaire, the government has responded that the exporters are using saw dust/ wood dust for the production of the PUC. However, the submissions of responding exporters in the EQRs as well as the information available on the websites of the responding exporters suggest that raw material used for the production of PUC are rubberwood, renewable rubberwood and eucalyptus wood.
468. To determine the quantum of the subsidy margin, the Authority looked for the appropriate benchmark whereby it was found that New Zealand is one of the largest exporters of logs globally. The Authority considered exports of log from New Zealand to India as an appropriate benchmark being representative as compared to import price from New Zealand to the subject countries. For those producers/exporters that have used wood chip as their raw material, the domestic prices in New Zealand for wood chip has been considered as the appropriate benchmark. The actual procurement rate of wood has been considered as per the exporters questionnaire response. Considering the appropriate conversion rates, the subsidy margin determined has been provided in the table below.

Program No. 12b: Provision for Land at Less Than Adequate Remuneration

Submission by the Petitioners

469. The Government of Thailand also grants land-based incentives in the form of exemption/reduction from payment of land rent to enterprises set up in areas of difficult socio-economic conditions and engaged in one of the encouraged sectors and located in specified zones or regions. Hence, the program is countervailable. The analysis of the Authority in the Disclosure Statement pertains to both raw materials (wood) and land at LTAR. There is no contradiction in the Authority's analysis in the Disclosure Statement.

Submissions by Government of Thailand/other interested parties

470. GOT does not provide land at LTAR. Treasury Department is responsible for governing, overseeing, and maintaining state property. Government provides supporting measures and other promotions for development of basic infrastructure, investment in supporting infrastructure and allocation of land for operation in SEZ. Treasury department uses auction process to allocate land in SEZs to government agencies and private sector as per set criteria. Up until now, there is no business operation in any location under SEZs. None of the producers/exporters of PUC are in SEZ or any other specific geographic area.
471. The land procured by the Metro Group was at a price far above the price guideline issued by the government. No land was purchased or leased from the government. The land purchased by the Panel Plus Group and Vanachai Group are as per the general purchase price. The land purchased by Agro Fiber, Green Fiber, and Wisewoods are not from the government but from private players as per prevailing market prices.

Examination by the Authority

472. For land procured by the manufacturing units at Less than adequate remuneration, the Authority notes that the Treasury Department of the Government of Thailand provides land on lease to enterprises investing in Special Economic Development Zones in 6 provinces. The beneficiary is required to pay a rent specified by the Board of Investment of Thailand and not one determined based on market principles. The program provides a financial contribution in the form of revenue foregone that is otherwise due and a benefit is thereby conferred. The program is specific since it is provided to those companies investing in Special Economic Development Zones designated by the Government of Thailand. Therefore, the Authority holds this program as countervailable. However, there is no evidence on record to suggest that the responding producers have availed exemption/reduction in land rent. Hence, it is noted that no countervailing duty should be imposed against the responding producers/exporters under this program.

Program No. 13: Provision for Electricity for Less Than Adequate Remuneration

Submission by the Petitioners

473. The petitioners submitted that the program is administered by the National Energy Policy Council (NEPC) and the Energy Regulatory Commission (ERC). The program, enabled by the Energy Industry Act, 2007, provided differential prices for electricity to enterprises located in Provincial Electricity Authority (PEA) service areas as a result of the uniform pricing policy undertaken by the ERC. The inherent cost differentials in supplying electricity to Metropolitan and Provincial regions are completely disregarded by the ERC. Hence, the tariff determination process is inconsistent with market principles and distorts the domestic supply of electricity. The program provides a financial contribution in the form of provisions for goods or services at LTAR and a benefit is thereby conferred. The program is specific as it is provided only to enterprises in certain encouraged sectors and located in certain regions.

Submissions by Government of Thailand/other interested parties

474. The claim is incorrect and baseless. The price of electricity is uniform in nature and hence, not specific. The program does not qualify as a subsidy as per the ASCM. No countervailable benefit is provided. The program is not specific as it is provided to all businesses and industries.
475. PEA which distributes and sells electricity to manufacturing companies is operating at profit and is not providing electricity at LTAR. The state-owned suppliers, i.e., EGAT, MEA and PEA can enter into bilateral agreement with particular end-users for supply.
476. The rates charged by the three entities are to be approved by the ERC. ERC follows the Tariff Setting Policy for the same. The rate is published after approval from the ERC.
477. As per the Tariff Setting Policy during the POI, a uniform tariff policy is followed which provides same rate regardless of the location. Same wholesale tariff structure is followed for MEA and PEA. Retail tariff charged by MEA and PEA are same regardless of location or sector.
478. The prices charged covers government's operating costs and ensures reasonable returns.
479. Power tariff includes base tariff (investment costs including costs in power plants, transmission, distribution lines etc.), automatic tariff adjustment mechanism (fuel cost and power purchase cost), and VAT.
480. The power purchased by the Metro Group, Panel Plus Group, and Vanachai Group, as per their submissions, are from PEA and not at a subsidized rate. The same is determined by the PEA after taking into consideration peak charges, off-peak charges, demand charges, etc. The tariff depends on the type of entity, type of service, and time of use.
481. The benchmark relied on by the domestic industry for the quantification of the same is erroneous as it takes into consideration only off-peak hour rates issued by the PEA and ignores all additional charges. Since PEA is the only regulatory authority for electricity supply in provisional areas of Thailand, there cannot be any other benchmark.

Examination by the Authority

482. The Authority notes that under the Energy Industry Act, 2007, power supply in Thailand is undertaken by the Metropolitan Energy Authorities (MEA) and the Provincial Energy Authorities (PEA) and regulated by the Energy Regulatory Commission (ERC). ERC has undertaken a uniform tariff policy for the supply of electricity throughout Thailand. Though ERC is statutorily required to take into account all the costs involved while determining tariffs, ERC has disregarded the inherent cost differentials in supplying electricity to Metropolitan as well as Provincial regions. Hence, the Authority notes that the tariff determination process is inconsistent with market principles and distorts the domestic supply of electricity. The program provides a financial contribution in the form of electricity at less than adequate remuneration and a benefit is thereby conferred. The Authority notes that there is no uniform tariff and tariff depends on the type of entity and hence the program is specific. Therefore, the Authority holds this program as countervailable. Hence, the authority has

quantified subsidy margins for the said scheme against the responding exporters/producers in the table below.

Advance Fiber Co. Ltd.

483. Advance Fiber Co. Ltd. is a producer/exporter of subject goods in Thailand. Advance Fiber filed the questionnaire response and provided information regarding the subsidy programs availed by them.

484. Authority examined the response filed by Advance Fiber and upon examination requested further information from them and also verified the information provided in the response to the extent deemed necessary. Additionally, the Authority determined that the subsidy programs resulting in provision for wood and electricity at LTAR were availed by Advance Fiber. As a result, benefit was conferred to Advance Fiber in the form of various subsidies.

485. Authority has verified the information provided by Advance Fiber and determined subsidy margin for programs for which benefit was received or accrued during the POI. Wherever the relevant information was not provided by the exporter, Authority has relied on facts available to determine the subsidy margin.

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

SN	Program No.	Name of the Schemes	Subsidy Margin %	Range %
1	Program No 1	Exemption/Reduction of import duties on machinery	***%	0-10
2	Program No 12a	Provision for Raw Material (Wood) at Less Than Adequate Remuneration	***%	0-10
3	Program No 13	Provision for Electricity at Less Than Adequate Remuneration	***%	0-10
		Total Subsidy	***%	0-10

Metro MDF Co. Ltd.

487. Metro MDF Co. Ltd. is a producer/exporter of subject goods in Thailand. Metro filed the questionnaire response and provided information regarding the subsidy programs availed by them.

488. Authority examined the response filed by Metro and upon examination requested further information from them and also verified the information provided in the response to the extent deemed necessary. Metro has disclosed in their questionnaire response that it has availed exemption on corporate income tax. Additionally, the Authority determined that the subsidy programs resulting in provision for wood and electricity at LTAR were availed by Metro. As a result, benefit was conferred to Metro in the form of various subsidies.

489. Authority has verified the information provided by Metro and determined subsidy margin for programs for which benefit was received or accrued during the POI. Wherever the relevant information was not provided by the exporter, Authority has relied on facts available to determine the subsidy margin.

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

SN	Program No.	Name of the Schemes	Subsidy Margin %	Range %
1	Program No 4	Exemption of Corporate income tax for BOI	****%	0-10
2	Program No 12a	Provision for Raw Material (Wood) at Less Than Adequate Remuneration	****%	0-10
3	Program No 13	Provision for Electricity at Less Than Adequate Remuneration	****%	0-10
		Total Subsidy	****%	0-10

Wisewoods Co.Ltd.

491. Wisewoods Co. Ltd. is a producer/exporter of subject goods in Thailand. Wisewoods filed the questionnaire response and provided information regarding the subsidy programs availed by them.

492. Authority examined the response filed by Wisewoods and upon examination requested further information from them and also verified the information provided in the response to the extent deemed necessary. Wisewoods has disclosed in their questionnaire response that it has availed exemption on import duty on machinery and corporate income tax. Additionally, the Authority determined that the subsidy programs resulting in provision for wood and electricity at LTAR were availed by Wisewoods. As a result, benefit was conferred to Wisewoods in the form of various subsidies.

493. Authority has verified the information provided by Wisewoods and determined subsidy margin for programs for which benefit was received or accrued during the POI. Wherever the relevant information was not provided by the exporter, Authority has relied on facts available to determine the subsidy margin.

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

SN	Program No.	Name of the Schemes	Subsidy Margin %	Range %
1	Program No 1	Exemption/Reduction of import duties on machinery	****%	0-10

2	Program No 4	Exemption of Corporate income tax for BOI	***%	0-10
3	Program No 12a	Provision for Raw Material (Wood) at Less Than Adequate Remuneration	***%	0-10
4	Program No 13	Provision for Electricity at Less Than Adequate Remuneration	***%	0-10
		Total Subsidy	***%	10-20

Green Fiber Co. Ltd.

495. Green Fiber Co. Ltd. is a producer/exporter of subject goods in Thailand. Green Fiber filed the questionnaire response and provided information regarding the subsidy programs availed by them.

496. Authority examined the response filed by Green Fiber and upon examination requested further information from them and also verified the information provided in the response to the extent deemed necessary. The Authority determined that the subsidy programs resulting in exemption of corporate income tax, preferential loans and provision for wood and electricity at LTAR were availed by Green Fiber. As a result, benefit was conferred to Green Fiber in the form of various subsidies.

497. Authority has verified the information provided by Green Fiber and determined subsidy margin for programs for which benefit was received or accrued during the POI. Wherever the relevant information was not provided by the exporter, Authority has relied on facts available to determine the subsidy margin.

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

SN	Program No.	Name of the Schemes	Subsidy Margin %	Range %
1	Program No 4	Exemption of Corporate income tax for BOI	***%	0-10
2	Program No 12a	Provision for Raw Material (Wood) at Less Than Adequate Remuneration	***%	10-20
3	Program No 13	Provision for Electricity at Less Than Adequate Remuneration	***%	0-10
4	Other Subsidies	Loans	***%	0-10
		Total Subsidy	***%	10-20

Agro Fiber Co. Ltd.

499. Agro Fiber Co. Ltd. is a producer/exporter of subject goods in Thailand. Agro Fiber filed the questionnaire response and provided information regarding the subsidy programs availed by them.

500. Authority examined the response filed by Agro Fiber and upon examination requested further information from them and also verified the information provided in the response to the extent deemed necessary. Agro Fiber has stated in their questionnaire response that they have not availed any countervailable subsidy. However, the Authority determined that the subsidy programs resulting in preferential loans and provision for wood and electricity at LTAR were availed by Agro Fiber. As a result, benefit was conferred to Agro Fiber in the form of various subsidies.

501. Authority has verified the information provided by Agro Fiber and determined subsidy margin for programs for which benefit was received or accrued during the POI. Wherever the relevant information was not provided by the exporter, Authority has relied on facts available to determine the subsidy margin.

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

SN	Program No.	Name of the Schemes	Subsidy Margin %	Range %
1	Program No 12a	Provision for Raw Material (Wood) at Less Than Adequate Remuneration	***%	0-10
2	Program No 13	Provision for Electricity at Less Than Adequate Remuneration	***%	0-10
3	Other Subsidies	Loans	***%	0-10
		Total Subsidy	***%	10-20

Panel Plus MDF Co. Ltd.

503. Panel Plus MDF Co. Ltd. is a producer/exporter of subject goods in Thailand. Panel Plus MDF filed the questionnaire response and provided information regarding the subsidy programs availed by them.

504. Authority examined the response filed by Panel Plus MDF and upon examination requested further information from them and also verified the information provided in the response to the extent deemed necessary. Additionally, the Authority determined that the subsidy programs resulting in preferential loans and provision for wood and electricity at LTAR were availed by Panel Plus MDF. As a result, benefit was conferred to Panel Plus MDF in the form of various subsidies.

505. Authority has verified the information provided by Panel Plus MDF and determined subsidy margin for programs for which benefit was received or accrued during the POI. Wherever the relevant information was not provided by the exporter, Authority has relied on facts available to determine the subsidy margin.

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

SN	Program No.	Name of the Schemes	Subsidy Margin %	Range %
1	Program No 12a	Provision for Raw Material (Wood) at Less Than Adequate Remuneration	***%	0-10
2	Program No 13	Provision for Electricity at Less Than Adequate Remuneration	***%	0-10
3	Other Subsidies	Loans	***%	0-10
		Total Subsidy	***%	10-20

Panel Plus Co. Ltd.

507. Panel Plus Co. Ltd. is a producer/exporter of subject goods in Thailand. Panel Plus Co filed the questionnaire response and provided information regarding the subsidy programs availed by them.

508. Authority examined the response filed by Panel Plus Co and upon examination requested further information from them and also verified the information provided in the response to the extent deemed necessary. Panel Plus Co. Ltd. had disclosed in its questionnaire response that none of the subsidy programs are applicable to them since they do not produce the PUC. However, Panel Plus Co purchases fibreboard from its related party, laminates them and sells the product. It is noted that laminated fibreboard falls within the scope of the PUC. Hence, the Authority determined that the subsidy programs resulting in preferential loans and provision for wood at LTAR were availed by Panel Plus Co. As a result, benefit was conferred to Panel Plus Co in the form of various subsidies.

509. Authority has verified the information provided by Panel Plus Co and determined subsidy margin for programs for which benefit was received or accrued during the POI. Wherever the relevant information was not provided by the exporter, Authority has relied on facts available to determine the subsidy margin.

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

SN	Program No.	Name of the Schemes	Subsidy Margin %	Range %
1	Program No 12a	Provision for Raw Material (Wood) at Less Than Adequate Remuneration	***%	0-10
2	Other Subsidies	Loans	***%	0-10
		Total Subsidy	***%	0-10

Yanachai Group Public Co. Ltd.

511. Vanachai Group Public Co. Ltd. is a producer/exporter of subject goods in Thailand. Vanachai Group filed the questionnaire response and provided information regarding the subsidy programs availed by them.

512. Authority examined the response filed by Vanachai Group and upon examination requested further information from them and also verified the information provided in the response to the extent deemed necessary. The Authority determined that the subsidy programs resulting in exemption of corporate income tax, preferential loans, and provision for wood and electricity at LTAR were availed by Vanachai Group. As a result, benefit was conferred to Vanachai Group in the form of various subsidies.

513. Authority has verified the information provided by Vanachai Group and determined subsidy margin for programs for which benefit was received or accrued during the POI. Wherever the relevant information was not provided by the exporter, Authority has relied on facts available to determine the subsidy margin.

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

SN	Program No.	Name of the Schemes	Subsidy Margin %	Range %
1	Program No 4	Exemption of Corporate Income Tax for BOI	***%	0-10
2	Program No 12a	Provision for Raw Material (Wood) at Less Than Adequate Remuneration	***%	10-20
3	Program No 13	Provision for Electricity at Less Than Adequate Remuneration	***%	0-10
4	Other Subsidies	Loans	***%	0-10
		Total Subsidy	***%	10-20

Vanachai Panel Industries Co. Ltd.

515. Vanachai Panel Industries Co. Ltd. is a producer/exporter of subject goods in Thailand. Vanachai Panel filed the questionnaire response and provided information regarding the subsidy programs availed by them.

516. Authority examined the response filed by Vanachai Panel and upon examination requested further information from them and also verified the information provided in the response to the extent deemed necessary. Additionally, the Authority determined that the subsidy programs resulting in preferential loans and provision for wood and electricity at LTAR were availed by Vanachai Panel. As a result, benefit was conferred to Vanachai Panel in the form of various subsidies.

517. Authority has verified the information provided by Vanachai Panel and determined subsidy margin for programs for which benefit was received or accrued during the POI.

Wherever the relevant information was not provided by the exporter, Authority has relied on facts available to determine the subsidy margin.

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

SN	Program No.	Name of the Schemes	Subsidy Margin %	Range %
1	Program No 12a	Provision for Raw Material (Wood) at Less Than Adequate Remuneration	***%	10-20
2	Program No 13	Provision for Electricity at Less Than Adequate Remuneration	***%	0-10
3	Other Subsidies	Loans	***%	0-10
		Total Subsidy	***%	10-20

S. Kijchai Enterprise

519. S. Kijchai Enterprise is a producer/exporter of subject goods in Thailand. Kijchai filed the questionnaire response and provided information regarding the subsidy programs availed by them.

520. However, it is noted that S. Kijchai Enterprise has failed to provide a meaningful summary of the confidential submissions in the form of Non-confidential version submitted to the Authority. The Authority notes that such a limited submission has impeded the opportunity for the other interested parties to make meaningful comments on the Exporter Questionnaire response filed by the aforementioned company. The Authority, therefore, holds to reject the response filed by the above company. Accordingly no individual subsidy margin rate can be determined for S. Kijchai Enterprise. Subsidy margin determined for all other producers/exporters from Thailand is being made applicable for S. Kijchai Enterprise.

521. No other producer/exporter from Thailand has filed questionnaire response. Countervailing duty for all other producers/exporters from Thailand has been determined based on facts available and countervailability of the respective programs. The subsidy margins are given in the table below.

SN	Program No.	Name of the Schemes	Subsidy Margin %	Range %
1	Program No 1	Exemption/Reduction of import duties on machinery	***%	0-10
2	Program No 4	Exemption of Corporate income tax for BOI	***%	0-10
3	Program No 12a	Provision for Raw Material (Wood) at Less Than Adequate Remuneration	***%	10-20

4	Program No 13	Provision for Electricity at Less Than Adequate Remuneration	****%	10-20
5	Other Subsidies	Loan	****%	0-10
		Total Subsidy	****%	20-30

Vietnam

(i) Program No. 1: Import Duty Exemptions on Imports of Raw Materials for Exporting Goods

Submissions by the Petitioners

522. The petitioners submitted that the said program is administered by the General Department of Vietnam Customs (GDVC). The Law of Import and Export Duty, 2016, Decree No. 134/2016/ND-CP, Decree No. 08/2015/ND-CP, and Circular No. 38/2015/TT-BTC grant an exemption on payment of import duty levied on import of goods directly used in the production of goods for exports. The program provides a financial contribution in the form of revenue forgone that is otherwise due and a benefit is thereby conferred. The program is also specific as it is contingent on exports.

523. The program was previously examined by the Authority in the Final Findings of anti-subsidy investigation on imports of “Continuous Cast Copper Wire Rods” from Indonesia, Malaysia, Thailand, and Vietnam and found countervailable.

Submissions by Government of Vietnam/other interested parties

524. The Government of Vietnam submitted that it pursues a policy of exemption of import duty for imported raw materials used for exporting production. The policy is regulated by the Law on Export and Import Duty and is applied to every form and type of business throughout the country.

525. The amount of exemption is equal to the amount of duty corresponding to the value of imported materials actually used in the production of the finished goods that are exported. The amount is determined or declared at the time of reporting to Customs on the use of imported raw materials in accordance with Decree 08/2015/ND-CP, and Circular 38/2015/TT-BTC. Though several companies under investigation from Vietnam imported raw materials from countries including Malaysia, China, Thailand, India, and Korea, there was no duty payable as per the China-ASEAN Free Trade Agreement and ASEAN-India Free Trade Agreement.

Examination by the Authority

526. The Authority notes that the program is administered under the Law on Import and Export Duty, 2016, Decree 08/2015/ND-CP and Circular 38/2015/TT-BTC. The program provides for exemption on import duty on raw materials used in the manufacture of exported product. The program provides for financial contribution in the form of revenue foregone and benefit

is thereby conferred. The subsidy program is also specific because it is contingent on export. Therefore, the Authority holds this program as countervailable.

527. The responding producers/exporters have stated in their Questionnaire Responses that they have either not imported any raw materials or imported them under an FTA where the duty payable is NIL. It is noted that no benefit was availed by any of the cooperative producers/exporters, hence it is noted that no countervailing duty should be imposed against the responding exporters/producers under this program.

(ii) Program No. 2: Import Duty Exemptions on Imported Raw Materials in Non-Tariff Zones

Submissions by the Petitioners

528. The petitioners submitted that the said program is administered by the General Department of Vietnam Customs (GDVC). The Law of Import and Export Duty, 2016 grants an exemption on payment of import duty levied on import of raw materials into Non-Tariff Zones established by decisions of the Prime Minister. The program provides a financial contribution in the form of revenue forgone that is otherwise due and a benefit is thereby conferred. The program is also specific as it is contingent on exports and is available only to enterprises located in the Non-Tariff Zones.

Submissions by Government of Vietnam/other interested parties

529. The Government of Vietnam submitted that according to Article 16 of the Law on Export and Import Duty, the import duties levied on goods manufactured, processed, recycled, assembled in a free trade zone without using imported raw materials or components will be exempted when they are imported into the domestic market. It is also submitted that none of the companies under investigation from Vietnam are located in non-tariff zones.

Examination by the Authority

530. The Authority notes that the program is administered under the Law on Import and Export Duty, 2016. The program provides for exemption on import duty levied on goods manufactured, processed, recycled, assembled in a free trade zone when they are imported into the domestic market. The program provides for financial contribution in the form of revenue foregone and benefit is thereby conferred. The subsidy program is also specific because it is provided to enterprises located in Non-Tariff Zones. Therefore, Authority holds this program as countervailable.

531. The responding producers/exporters have stated in their Questionnaire Responses that they have either not imported any raw materials or imported them under an FTA where the duty payable is NIL. It is noted that no benefit was availed by any of the cooperative producers/exporters, hence it is noted that no countervailing duty should be imposed against the responding exporters/producers under this program.

(iii) Program No. 3: Import Duty Exemption on Imports of Spare Parts and Accessories for Companies in Industrial Zones

Submissions by the Petitioners

532. The petitioners submitted that the said program is administered by the General Department of Vietnam Customs (GDVC). The Law of Import and Export Duty, 2016, Law of Investment No. 67/2014/QH13, Decree No. 134/2016/ND-CP, and Appendix I and II of Decree No. 118/2015/ND-CP grant an exemption on payment of import duty levied on import of goods to create fixed assets for companies subject to investment preferences and geographic areas. These imported goods include machinery and equipment, components, parts, spare parts of machinery and equipment, special-use vehicle in a technology line directly used for a manufacturing project, and building materials that cannot be domestically-produced. The program provides a financial contribution in the form of revenue forgone that is otherwise due and a benefit is thereby conferred. The program is also specific as it is only available to companies engaged in preferred investment activities and located in areas/zones identified under the Law of Investment No. 67/2014/QH13.
533. FSC Corporation and Kim Tin have expanded capacities or added new plants in the AUL period. Hence, they should have availed the program providing import duty exemption on capital goods.

Submissions by Government of Vietnam/other interested parties

534. The Government of Vietnam submitted that the import duty exemption is not limited to companies in industrial zones. However, a general exemption of import duty on import of equipment and machinery for the creation of fixed assets subject to investment preferences exists. Appendix I to Decree 118/2015/ND-CP identifies sectors eligible and Appendix II identifies geographical areas eligible for investment preferences. There is no law which mandated availment of programs in any case.
535. There is no countervailable benefit being provided since the imports made by the responding producers/exporters are under FTAs and the import duty payable is NIL. Hence, no revenue is forgone by the government for such imports.

Examination by the Authority

536. The Authority notes that the said program is administered by the General Department of Vietnam Customs (GDVC). Under the program, an exemption is granted on import duty levied on import of equipment and machinery for the creation of fixed assets. The exemption is granted to eligible sectors enlisted under Appendix I to Decree 118/2015/ND-CP and eligible investment programs enlisted under Appendix II to Decree 118/2015/ND-CP.
537. The program provides a financial contribution in the form of revenue forgone that is otherwise due and a benefit is thereby conferred. The program is also specific as it is only available to companies engaged in eligible sectors and subject to investment preferences of the government. Therefore, the Authority holds that this program as countervailable.

538. Questionnaire response filed by M/s MDF VRG shows that benefit is received by them under this subsidy program and therefore the Authority notes that countervailing duty should be imposed against this subsidy program to M/s MDF VRG.
539. M/s Kim Tin MDF Joint Stock Co. has stated in their Questionnaire Response that they have not imported any spare parts and accessories. Hence, it is noted that no benefit was availed by M/s Kim Tin MDF Joint Stock Co. Co. Ltd. and it is noted that no countervailing duty should be imposed against them under this program.

(iv) Program No. 4: Reduction of Corporate Income tax

Submissions by the Petitioners

540. The petitioners submitted that the said program is administered by provisional tax departments. Law of Investment No. 67/2014/QH13, Law on Enterprise Income Tax No. 14/2008/QH-12 and Decree No. 124/2008/ND-CP, and Decree No. 12/2015/ND-CP grant a reduction or exemption on payment of corporate income tax for a definite period or for the whole duration of implementation of an investment project identified under List A or Appendix to the Decree No. 164/2003/ND-CP or located in a geographical area identified under Decree No. 08/2006/ND-CP. The program provides a financial contribution in the form of revenue forgone that is otherwise due and a benefit is thereby conferred. The program is also specific as it is only available to companies engaged in investment projects or located in geographical area enlisted under the relevant laws.
541. The program was previously examined by the Authority in the Final Findings of anti-subsidy investigation on imports of "Continuous Cast Copper Wire Rods" from Indonesia, Malaysia, Thailand, and Vietnam and found countervailable.

Submissions by Government of Vietnam/other interested parties

542. The Government of Vietnam submitted that since 2009, the legal provisions for corporate income tax are in the Law on Enterprise Income Tax, No. 14/2008/QH-12 and the implementation is detailed under Decree No. 124/2008/ND-CP (replaced by Decree No. 218/2013/ND-CP with the same application). Under Article 15 of the Decree, a rate of 10% is applicable for 15 years to enterprises newly established in geographical areas identified under Article 15.1(a) and a rate of 20% for 10 years to those enterprises newly established in geographical areas identified under Article 15.4. Further Article 16 provides for tax exemption and reductions as follows:
- Tax exemption for 4 years and a 50% reduction in payable income tax for next 9 years for newly established enterprises (1) of socialized domains, and (2) located in geographic areas with specially difficult socio-economic conditions or in geographical areas enlisted under Article 16.1(b).
 - Tax exemption for 4 years and a 50% reduction in payable income tax for next 5 years for newly established enterprises (1) of socialized domains, and (2) located in geographic areas with specially difficult socio-economic conditions or in geographical areas enlisted under Article 16.2.

- Tax exemption for 2 years and a 50% reduction in payable income tax for next 4 years for newly established enterprises in geographical areas enlisted under Article 16.3.

543. Kim Tin MDF Joint Stock Company submitted that the program is neither prohibited nor specific.

Examination by the Authority

544. The Authority notes that under the program, a reduction or exemption on payment of corporate income tax is granted. The period and extent to which the reduction/exemption is granted is subject to geographical location and the investment made. While Article 15 of the Decree 124/2008/ND-CP grants preferential income tax rate depending on the geographical location of the newly established/hi-tech enterprise, Article 16 of the Decree 124/2008/ND-CP also grants an exemption/reduction in income tax depending on the geographical location of the newly established enterprise. The eligible geographical areas are enlisted under the Decree as geographical areas with specially difficult socio-economic conditions. There is no application or approval required to avail the benefit under the program. The program provides a financial contribution in the form of revenue forgone that is otherwise due and a benefit is thereby conferred. The program is also specific since it is provided to those companies located in designated areas/zones and undertaking investments as enlisted. Therefore, the Authority holds that this program should be held as countervailable.

545. M/s. MDF VRG Quang Tri Wood Joint Stock Co. in their Questionnaire Response, has disclosed that one of its plants is eligible to claim the benefit under the program but no benefit was availed. The records submitted by the company discloses that the concessional income tax was paid by them. It is also noted from the Questionnaire response filed by Kim Tin MDF Joint Stock Co. that the company has availed benefit under this subsidy program. In view of the above, the Authority notes that countervailing duty should be imposed against the responding producers/exporters under this program.

546. The Authority has quantified the subsidy margin based on the information submitted by the responding producers/exporters. The subsidy margin determined has been provided in the table below.

(v) Program No. 5: Exemption or Reduction of Import Tax

Submissions by the Petitioners

547. The petitioners submitted that the said program is administered by the Government of Vietnam. Law No. 67/2015/QH13 and Article 15 of Law of Investment No. 67/2014/QH13 grant a reduction or exemption on payment of import duty levied on imports of fixed assets, raw materials, supplies, and spare parts. The benefit is available to investment projects (i) enlisted under Clause 1 of Article 16 of the Law, or (ii) with investment of at least VND 6,000 billion, (iii) located in administrative divisions enlisted under Clause 2 of Article 16 of the Law, or (iv) located in rural areas employing at least 500 workers, or (v) engaged in science

and technology. The program provides a financial contribution in the form of revenue forgone that is otherwise due and a benefit is thereby conferred. The program is also specific as it is only available to companies engaged in projects or located in geographical area enlisted under the relevant laws.

Submissions by Government of Vietnam/other interested parties

548. M/s MDF VGR Quang Tri Wood Joint Stock Company submitted that exemption of duties under Free Trade Agreements are non-countervailable as held by the US authorities in the anti-subsidy investigation on imports of "Citric Acid and certain Citric Salts" from Thailand.

Examination by the Authority

549. The Authority has already determined that those programs that grant an exemption/reduction on import duty should be subject to countervailing duties. Therefore, it is noted that no additional countervailing duties should be imposed against this subsidy program.
550. While M/s MDF VRG stated in their Questionnaire Response that the imports made by the company was duty free, M/s Kim Tin MDF Joint Stock Co. in its questionnaire response has submitted that no benefits were claimed under this program. In view of the above, it is decided not to impose countervailing duty against any of the responding producers/exporters under this scheme.

(vi) Program No. 6: Exemption and Reduction of Land & Water Rent

Submissions by the Petitioners

551. The petitioners submitted that the said program is administered by local tax authorities. The land in Vietnam is completely owned by the government. The final findings in welded pipes and tubes as well as Continuous Cast Copper Wire Rods are relied upon. Law on Land No. 3/2003/QH-II, Law on Land No. 45/2013/QH13, and Decree No. 46/2014/ND-CP grant subsidized land and water rates and subsequently reduction or exemption of the same. The benefit is available to enterprises (i) located in geographical areas/regions with difficult socio-economic conditions or (ii) engaged in investment projects in special cases or encouraged industries. The program provides a financial contribution in the form of revenue forgone that is otherwise due and a benefit is thereby conferred. The program is also specific as it is only available to companies engaged in projects or located in geographical area enlisted under the relevant laws.
552. The program was previously examined by the Authority in the Final Findings of anti-subsidy investigation on imports of "Continuous Cast Copper Wire Rods" from Indonesia, Malaysia, Thailand, and Vietnam and found countervailable.

Submissions by Government of Vietnam/other interested parties

553. The Government of Vietnam submitted that it pursues a policy of exemption and reduction of land rent for companies who have investment projects in geographical regions or areas with specially difficult socio-economic conditions in order to encourage investment in such regions. It is also applicable to investment projects in special cases like construction of housing for poor workers etc. as well as in encouraged industries. Such encouraged geographical regions, encouraged industries and special cases are specified under Decree 46/2014/ND-CP. The program is not contingent upon export performance or domestic over imported goods.
554. Kim Tin uses leased land for which rent has been paid in full during the POI. The Company holds four possessions of land and rent for each was paid as determined by the Decision of the People's Committee of Binh Phuoc Province. Since Kim Tin uses a dry process for manufacturing the PUC, water usage is negligible. For other purposes, the water used is from ground water sources. On the other hand, the land used by MDF VRG is leased and the water is bought from Quang Tri Irrigation Engineering Management One Member Limited Company, which is an industrial water supplier and general service enterprise, and Dong Ha Clean Water Enterprise. There exist no schemes for exemption of water charges. MDF VRG Quang Tri Wood Joint Stock Company submitted that the program is neither prohibited nor specific. No subsidy was availed by the responding producers for the same.

Examination by the Authority

555. The Authority notes that the program is governed by Law on Land No. 3/2003/QH-II, Decree 142/2005/ND-CP dated 14th November 2005, Law on Land No. 45/2013/QH13, and Decree No. 46/2014/ND-CP. Exemption or reduction is provided on land and rent to companies who have investment in and located in geographical regions or areas such as designated areas/zones which are as per Decree 46/2014/ND-CP.
556. The Authority sought further information on Land and water distribution mechanism by the GOV and the responding producers/exporters. whereby it was mentioned that....
557. MDF VRG has submitted that the company has land on lease and the details of some exemption on land rent payment is already provided in the EQR under the concerned program. The company has further stated that it has paid water rent for the POI and also for all other periods and there are no such schemes wherein the water charges are exempted. The contention on water rent has no basis. The payment details of water bills have been provided along with the EQR as a separate annexure.
558. Kim Tin has responded that it has land on lease and the company has paid full rent during the POI. Such payment details and also some exemption on land rent payment in the past which has no relevance in the present investigation is all already provided in the EQR under the concerned program no. 6. The land used by Kim Tin MDF JSC is through 04 possessions and the land rent is different for each possession. Such rents are based on the Decision of the People's Committee of Binh Phuoc Province.
559. Kim Tin has the allegation of subsidy for water. The Company follows a dry process in the manufacture of the subject goods and the use of water in production of subject goods is

NIL or negligible. Even the water used for general purposes in the premise are from own ground water sources and the same does not come under any exemption program of the Government.

560. Questionnaire response filed by M/s. MDF VRG Quang Tri Wood Joint Stock Co. shows that the company has been availing reduction on land rent under this subsidy program. However, no such exemption was claimed on water rent. M/s Kim Tin MDF Joint Stock Co. has stated in their Questionnaire Response that their water consumption is negligible/nil in the POI and that no reduction/exemption in land rent was availed in the POI. However, the records submitted by the company shows that concessional land rents were paid by them.
561. Private ownership of land is not permitted in Vietnam and the people hold all ownership rights with the State as the administrator. However, the laws of Vietnam allow ownership of a right to use land. This right is called the Land Use Right ("LUR"). Land and water surface rent exemptions and reductions apply to a number of investment projects which satisfy certain conditions such as investment in encouraged sectors or certain fields of business and/or encouraged geographical locations.
562. Since market is distorted as regards to land price, therefore the Authority is not in a position to accept the land prices prevailing in the country.
563. The Authority has, therefore, analyzed comparable market-based prices in another country at a comparable level of economic development within the geographic vicinity of Vietnam.
564. The program provides financial contribution in the form of provision of goods or services at less than adequate remuneration. The program is also specific because it is region specific. The Authority, therefore, holds this program as countervailable and also notes that countervailing duty should be imposed against responding producers/exporters under this subsidy program.
565. The Authority has quantified the subsidy margin based on the information submitted by the responding producers/exporters. The subsidy margin determined has been provided in the table below.

(vii) Program No. 8: Investment Credit by Vietnam Development Bank

Submissions by the Petitioners

566. The petitioners submitted that the said program is administered by Vietnam Development Bank (VDB). Article 5 of Decree No. 75/2011/ND-CP together with Circulars by the Ministry of Finance provide credit for investment at a preferential rate to investors having a project on the list of projects entitled to the loan, having implemented the investment procedure, having 20% owner's equity and sufficient capital to implement the project. The program provides a financial contribution in the form of direct transfer of funds and a benefit is thereby conferred. The program is also specific as it is only available to enterprises meeting the eligibility criteria as per the relevant laws.

567. The responding exporters have also received loans from banks within the country at preferential rates. The Authority should take cognizance of the availment of the subsidized loans and quantify the same. Even though the interest-rate for short term loan is universally lower, the exporters need to provide evidence that those paid by the exporters are in accordance with benchmark prescribed as per central bank or World Bank or IMF and that there is no element of discretion or preferential treatment.

Submissions by Government of Vietnam/other interested parties

568. The Government of Vietnam submitted that Article 5 of Decree 75/2011/ND-CP authorizes the Vietnam Development Bank to provide investment credit to investors having investment projects on the list of eligible projects in Appendix I of the Decree. The Decree was replaced by Decree 32/2017/ND-CP on 15 May 2017.

569. No benefit under the program was availed by the responding producers/exporters. The interest rates paid by the responding producers/exporters for long-term loan is on par with the prevailing interest rate in Vietnam as per World Bank data. The interest rates for short-term loans are universally lower and no subsidy can be presumed. Additionally, there is no compensatory arrangement on interests.

Examination by the Authority

570. The Authority notes that the program is administered by the Vietnam Development Bank (VDB) which is a state policy bank established by Decision 108/2006/QĐ-TTg dated 19 May 2006. It was established to execute the state development investment and export credit policies as regulated by the Government. The organizational and operational regulations of VDB are in accordance with the Decision No. 1515/QĐ-TTg dated September 3rd, 2015 by the Prime Minister. Financial mechanism of VDB is executed in accordance with the Decision No.44/2007/QĐ-TTg dated March 30th. The Vietnam Development Bank is recognized as legal entity. The operation of VDB is for not profit oriented purposes. VDB and other state-owned banks in Vietnam are a public body because it is owned and controlled by the Government of Vietnam and exercises Governmental authority.

571. Under this program, credit is provided for investment at a preferential rate provided the investment project is one that is enlisted to be entitled for the loan. The program provides a financial contribution in the form of direct transfer of funds and a benefit is thereby conferred. The benefit is equivalent to the difference in interest charged by the VDB against that charged by an ordinary commercial bank for the same project. The program is also specific as it is only available to those companies investing in projects enlisted under the relevant law. Therefore, the Authority holds this program as countervailable.

572. The responding producers/exporters merely stated in their Questionnaire Responses that they have not availed any investment credit from the VDB. The records submitted by the responding producers/exporters show that no loans were received by them from VDB.

573. However, the Authority notes that the responding producers/exporters have received loans at concessional interest rates from the Vietnam Joint Stock Commercial Bank for Industry

and Trade (“VietinBank”). The Authority notes that the VietinBank was established on 26th March 1988 after its separation from the State Bank of Vietnam in accordance with Decree No. 53/HDBT by the Ministers Council. Vietinbank is majority owned by the State Bank of Vietnam. The Authority notes that the state-owned banks are vested with authority to exercise governmental functions is based on formal indicia of government control and evidence showing that it has been exercised in a meaningful way, hence it is a public body. Hence, the Authority notes that countervailing duty should be imposed against the responding producers/exporters under this program.

574. According to the Customs Tariff (Identification, Assessment and Collection of Countervailing Duty on Subsidized Articles and for Determination of Injury) Rules, 1995, in case of subsidized loans the amount of benefit is the difference between the amount that the firm receiving the loan pays on the VietinBank loan and the amount the firm would pay on a comparable commercial loan which the firm could actually obtain from the market. The amount of loan and the interest actually paid by the responding producers/exporters is taken from the records provided by them along with their questionnaire responses. The lending interest rate in Vietnam for the POI as provided by the World Bank has been taken as the appropriate benchmark interest rate for a commercial loan. The subsidy margin thereby calculated is in the table below.

(viii) Program No. 9: Export Credit by Vietnam Development Bank

Submissions by the Petitioners

575. The petitioners submitted that the said program is administered by Vietnam Development Bank (VDB). Decree No. 32/2017/ND-CP together with Circulars by the Ministry of Finance provide credit at a preferential rate to exporters and foreign importers who have contracted to trade in any goods enlisted in the list of items eligible for the same. The program provides a financial contribution in the form of direct transfer of funds and a benefit is thereby conferred. The program is also specific as it is contingent on exports.

576. The responding exporters have also received loans from banks within the country at preferential rates. The Authority should take cognizance of the availment of the subsidized loans and quantify the same.

Submissions by Government of Vietnam/other interested parties

577. The Government of Vietnam submitted that Article 5 of Decree 75/2011/ND-CP authorizes the Vietnam Development Bank to provide export credit to eligible exporters. However, the Decree was replaced by Decree 32/2017/ND-CP on 15 May 2017 and the whole export credit program terminated. However, those contracts entered into before the termination is still valid.

Examination by the Authority

578. The Authority notes that the program is administered by the Ministry of finance had specified certain enterprises eligible for credit loans. Vietnam Development Bank provides loans for investment projects and contracts on export/import of Vietnamese goods which have an impact on the capital. A pre-requirement set-up by the bank is that the financial plans and repayment plans shall be appraised by them beforehand. The Authority has already determined that VDB is a public body. It has also been determined that countervailing duty should be imposed against credit provided by VDB. Therefore, Authority holds that no additional countervailing duty is required to be imposed against this program.
579. The responding producers/exporters merely stated in their Questionnaire Responses that they have not availed any export credit from the VDB. The records submitted by the responding producers/exporters show that no loans were availed by them from the VDB.
580. Loans availed from the VietinBank have already been held as countervailable and quantified under Program No. 8 as explained above.

Other programs

(ix) Program No. 10: Provision of Standing Timber for Less Than Adequate Remuneration

Submissions by the Petitioners

581. The petitioners submitted that the said program is administered by the State Forest Department and General Department of Tax under the Ministry of Finance. The Government of Vietnam owns nearly all of Vietnam's harvestable forests and they are leased to companies for logging on which a severance rate is levied. The Law on Royalties No. 45/2009/GH12 together with Resolution No. 928/2010/UBTVQH12, Decree No. 50/2010/ND-CP and Circular Nos. 105/2010/TT-BTC and 32/2009/TT-BTC provides for stumpage charges lower than the market benchmark for stumpages. The intervention of the government in the forestry sector through regulation distorts the domestic market for timber allowing the producers of the subject goods in Vietnam to purchase raw materials, i.e., wood at prices lower than international prices. The program provides a financial contribution in the form of provision of goods for less than adequate remuneration and a benefit is thereby conferred. The program is also specific as it is primarily beneficial to enterprises that use wood as a raw material. As per the information on the website of the responding producers/exporters of Vietnam, they use eucalyptus as their raw material. The price of its procurement should be compared with an international benchmark for the same wood type.
582. The Trade Policy Review, which the domestic industry had submitted, is prepared by the WTO Secretariate based on the report submitted by the Government of Vietnam. Hence, it has high evidentiary value.
583. Article 14(d) of the ASCM allows the use of out-of-country benchmarks. In case of market distortion due to government measures, the use of domestic price as benchmark is inappropriate. New Zealand is an appropriate benchmark for log/timber/wood provided at

LTAR due to its high level of economic freedom, prudent and transparent financial regulations, low subsidies and private property rights. New Zealand is also the largest exporter of roundwood in 2019 while India was the 8th largest importer in the same year. However, the benchmark is too conservative and there exists other alternative benchmark which may be more appropriate.

Submissions by Government of Vietnam/other interested parties

584. Trade Policy Review of Vietnam to the WTO cannot be the legal basis for determining subsidy since it is merely a hearsay evidence. The evidence provided by the petitioners also does not have any reference to local procurement. M/s. MDF VRG Quang Tri Wood Joint Stock Co. purchases its main raw material, i.e., wood from the local market from unrelated suppliers. The producers in Vietnam do not use timber as their input.
585. Kim Tin procured their raw material (wood) from private local suppliers. MDF VRG procured raw material (wood) from local individual households at a suitable price based on prevailing conditions. No subsidy was availed by the responding producers/exporters for the same.
586. The use of benchmark price based on New Zealand is objected to since no reasons have been provided for choosing the same. It contains all sorts of wood and logs, and rubber wood is not included in any of the categories included. Moreover, the Government of New Zealand controls all of the harvested forest. The export price of wood from New Zealand to India are not determined as per market forces. New Zealand wood prices cannot be compared to rubber wood at all. The benchmark should be as per the prevailing market conditions in the country of provision. The WTO decision in US – Coated Paper (Indonesia) is relied on. As found in the Appellate Body Report in US – Softwood Lumber IV, out of country benchmark can only be adopted when the price of the resource is distorted in the subject country due to Government's predominant role in providing such goods.

(x) Program No. 11: Government Prohibition of Log Exports

Submissions by the Petitioners

587. The petitioners submitted that the said program is administered by the Ministry of Industry and Trade. Circular No. 88/2011/TT-BNNPTNT listed agricultural, fisheries, and forestry products to be subject to export prohibition. The Government of Vietnam also imposes export taxes on rubber and wood. Imposition of export restraints distorts the domestic market for logs and makes them available to downstream industries at less than adequate remuneration. The program, hence, provides a financial contribution in the form of provision of goods for less than adequate remuneration and a benefit is thereby conferred. The program is also specific as it is primarily beneficial to enterprises that use timber as a raw material.

Submissions by Government of Vietnam/other interested parties

588. No submissions were made by the Government of Vietnam/other interested parties with regard to this program.

Examination by the Authority

589. The Authority notes that program no. 10 & 11 relates to the series of the measure taken by Government of Vietnam to regulate, monitor and control forestry sector in Vietnam. Since effect of these programs results in wood being provided at less than adequate remuneration, it is considered appropriate to combine these programs and examine them collectively for the purpose of present investigations.

590. The petitioners submitted that the program no. 10 is administered by the State Forest Department and General Department of Tax under the Ministry of Finance. Vietnam's harvestable forests are primarily owned by the Government of Vietnam through Forest Management Boards and State Forest Companies. According to Law on Royalties No. 45/2009/GH12, enterprises are allowed to exploit the natural resources on these state forests and a tax is collected on the output. The rate of tax collected is prescribed under the statute. The responding cooperative producers/exporters have disclosed in their Questionnaire Response that they use firewood as their raw material. The tax collected on firewood is 1-5% of the output. The Authority notes that the tax collected by the relevant Ministry is discretionary and with disregard for market principles. The tax collected is far less than the market rates of the wood.

591. The petitioners submitted that the program no. 11 is administered by the Ministry of Industry and Trade. Circular No. 88/2011/TT-BNNPTNT listed agricultural, fisheries, and forestry products to be subject to export prohibition. Through the imposition of export restraints, the Government of Vietnam entrusted/directed domestic forestry/harvesting companies to provide low priced inputs (logs/wood) to companies in the downstream industries. The measures at issue achieved the desired effect to distort the domestic market of wood/timber/log in the subject country and to depress the price to an artificially low level to the advantage of the downstream industry

592. The Authority notes as per the information submitted and as also available on websites of responding producers/exporters that they use eucalyptus (firewood) as their raw material for production of the PUC.

593. Hence, wood, which is the primary raw material in the fiberboard industry, is made available for procurement to the companies under investigation at rates below the market rate. The program provides a financial contribution in the form of provision of goods for less than adequate remuneration and a benefit is thereby conferred. The program is also specific since it benefits those downstream industries that use logs/wood as their primary raw material. Hence, the program is *de facto* available only to a limited number of industries. Therefore, the Authority notes that countervailing duty should be imposed against the responding exporters/producers under this subsidy program.

594. To determine the quantum of the subsidy margin, the Authority looked for the appropriate benchmark whereby it was found that New Zealand is one of the largest exporters of logs

globally. The Authority considered exports of logs from New Zealand to India as an appropriate benchmark being representative as compared to import price from New Zealand to the subject countries. The actual procurement rate of wood has been considered as per the exporters questionnaire response. Considering the appropriate conversion rates, the subsidy margins for Program no. 10 and 11 have been determined and provided in the table below.

(xi) Program No. 12: Land Preferences for Enterprises in Encouraged Industries or Industrial Zones under Decree 142

Submissions by the Petitioners

595. The petitioners submitted that the said program is administered by the People's Committee of the Government of Vietnam. The land in Vietnam is completely owned by the government. The final findings in welded pipes and tubes as well as Continuous Cast Copper Wire Rods are relied on. Decree No. 142/2005/ND-CP provides for rents on land leased from the People's Committee of Can Tho at rates below the market rates. The program provides a financial contribution in the revenue forgone that is otherwise due and a benefit is thereby conferred. The program is also specific as it is available only to enterprises located in the specific geographic area.

Submissions by Government of Vietnam/other interested parties

596. No submissions were made by the Government of Vietnam/other interested parties with regard to this program.

Examination by the Authority

597. The Authority notes that the program is governed by Decree 142/2005/ND-CP. Exemption or reduction is provided on land rent to companies who have investment in identified regions and investment projects for encouraged industries as specified under the Decree 142/2005 and succeeding Decree 46/2014.

598. The program provides financial contribution in the form of provision of goods or services at less than adequate remuneration. The program is also specific because it is region specific and is limited to certain encouraged sectors. Therefore, the Authority holds this program as countervailable. However, the subsidy is subsumed in Program 6 that has already been quantified by the Authority.

(xii) Program No. 13: Government Provision of Land for Less Than Adequate Remuneration and Exemptions or Reductions from Land and Water Rents

Submissions by the Petitioners

599. The petitioners submitted that the said program is administered by the State Government of Dong Nai and its civic authorities. The land in Vietnam is completely owned by the government. The final findings in welded pipes and tubes as well as Continuous Cast Copper

Wire Rods are relied on. Decree No. 46/2014/ND-CP, Decree No. 123/2017/ND-CP, and Law No. 45/2013/QH13 provides for exemption or reduction in land and rents. The land and water rents are exempted when it is used for construction of houses for workers in industrial zones which are approved by competent authorities. The exemption is for 3 years for domains entitled to investment incentives and for 11 years for domains entitled to special investment incentives. A 50% reduction on land rent is provided to cooperatives that use the premises for business and production activities. The land and water rent for land and water surface leased for agriculture, forestry, aquaculture or salt making is reduced by a corresponding rate when 40% of the yield is damaged by a disaster or conflagration. The program provides a financial contribution in the revenue forgone that is otherwise due and a benefit is thereby conferred. The program is also specific as it is available only to enterprises that meet the eligibility criteria prescribed.

Submissions by Government of Vietnam/other interested parties

600. No submissions were made by the Government of Vietnam/other interested parties with regard to this program.

Examination by the Authority

601. The Authority has already held that countervailing duty should be imposed against provision of land at less than adequate remuneration. Therefore, Authority further notes that no additional countervailing duty is required to be imposed against the responding exporters/producers under this program.

602. Hence, the subsidy margins for the responding producers/exporters have been quantified in the table below.

Program No. 14: Electricity at Less Than Adequate Remuneration

Submissions by the Petitioners

603. The petitioners submitted that the electricity is provided in Vietnam at less than adequate remuneration.

Submissions by Government of Vietnam/other interested parties

604. Power was procured by both Kim Tin and MDF VRG from private suppliers in the area at price fixed by them. No subsidy was availed by the responding producers for the same. The Government of Vietnam has not made any submissions on the allegation of electricity at less than adequate remuneration.

Examination by the Authority

605. During the course of investigation, the Authority has come across the Electricity provided at LTAR, as per the allegation submitted by applicants in their submissions. The Authority sought requisite information in form of additional questionnaire from the interested parties.

The Government of Vietnam has not provided any submissions in this regard. The responding exporters have, in their questionnaire response, have submitted that they have procured electricity at market price.

606. The Authority notes that the electricity sector in Vietnam is regulated by the Electricity Law which is amended and revised from time to time. The Electricity Regulatory Authority of Vietnam (ERAV) was established in 2005 which, among other responsibilities, advise on electricity tariffs in the country. The law prescribes an Average Retail Tariff (ART) based on which the power tariff is levied. Though the ART has been revised several times in the past, the Authority finds that the same has not been proportionate with the fluctuations in costs and inflation. As per a report published by the World Bank in March 2020, the ART in 2019 was around 8 US cents/kWh while the same should have been 12 US cents/kWh to recover the costs fully.
607. Further, the generation, transmission and distribution of electricity in Vietnam is almost entirely controlled by the state-owned corporate group, Electricity Vietnam (EVN) along with its affiliated companies. EVN is not listed on a stock exchange and does not have the liberty to issue new equity. As per the Annual Report 2018 of EVN, the company is *“entrusted (by the government) with the mission of ensuring sufficient electricity for national socio-economic growth.... and serves the Government as an important macro regulatory tool for national economic development”*. The sub-optimal returns earned by these companies due to government regulation of electricity tariffs are partly compensated by state support for EVN in the form of tax incentives, guarantees, loans with favourable terms from state-owned banks, and subsidies for strategic projects. The Authority notes that the state-owned enterprise, EVN is vested with authority to exercise governmental functions is based on formal indicia of government control and evidence showing that it has been exercised in a meaningful way, hence it is a public body. Hence, the Authority finds that the electricity sector in Vietnam is distorted and not based on market principles which enables the producers of the PUC to procure electricity at less than adequate remuneration. Hence, the Authority holds that countervailing duty should be imposed against the responding producers/exporters under this program.
608. To determine the quantum of the subsidy margin, the Authority looked for the appropriate benchmark. The Authority relied upon the prices provided as per the website of ‘globalpetrolprices’. The actual electricity tariffs paid by the responding producers as per the additional questionnaire response has been considered to determine the subsidy margins. Considering the methodology above, the subsidy margin determined for the responding exporters has been provided in the table below.

Kim Tin MDF Joint Stock Co

609. Kim Tin MDF Joint Stock Co. is a producer/exporter of subject goods in Vietnam. Kim Tin filed the questionnaire response and provided information regarding the subsidy programs availed by them.

610. Authority examined the response filed by Kim Tin and upon examination requested further information from them and also verified the information provided in the response to the extent deemed necessary. Kim Tin has disclosed in their questionnaire response that it has availed reduction on corporate income tax. Additionally, the Authority determined that the subsidy programs resulting in reduction in land rent, loans received by Vietnam Development Bank, and provision for wood and electricity at LTAR were availed by Kim Tin. As a result, benefit was conferred to Kim Tin in the form of various subsidies.

611. Authority has verified the information provided by Kim Tin and determined subsidy margin for programs for which benefit was received or accrued during the POI. Wherever the relevant information was not provided by the exporter, Authority has relied on facts available to determine the subsidy margin.

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

SN	Program No.	Name of the Schemes	Subsidy Margin %	Range %
1	Program No 4	Reduction of Cooperate income tax	***%	0-10
2	Program No 6, 12 & 13	Exemption and Reduction of Land and Water Rent	***%	0-10
3	Program No 8	Investment Credit by Vietnam Development Banks	***%	0-10
4	Program No 10 & 11	Provision for Raw Material (Wood) at Less Than Adequate Remuneration	***%	0-10
5	Program No 14	Provision for Electricity at Less Than Adequate Remuneration	***%	0-10
		Total Subsidy	***%	10-20

MDF VRG Quang Tri Wood Joint Stock Co.

613. MDF VRG Quang Tri Wood Joint Stock Co. is a producer/exporter of subject goods in Vietnam. MDF VRG filed the questionnaire response and provided information regarding the subsidy programs availed by them.

614. Authority examined the response filed by MDF VRG and upon examination requested further information from them and also verified the information provided in the response to the extent deemed necessary. MDF VRG has disclosed in their questionnaire response that it has availed reduction on land rent. Additionally, the Authority determined that the subsidy programs resulting in reduction in corporate income tax, loans received by Vietnam Development Bank, and provision for wood and electricity at LTAR were availed by MDF VRG. As a result, benefit was conferred to MDF VRG in the form of various subsidies.

615. Authority has verified the information provided by MDF VRG and determined subsidy margin for programs for which benefit was received or accrued during the POI. Wherever the

relevant information was not provided by the exporter, Authority has relied on facts available to determine the subsidy margin.

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

SN	Program No.	Name of the Schemes	Subsidy Margin %	Range %
1	Program No 3	Exemption of Import of Spare Parts	***%	0-10
2	Program No 4	Reduction of Cooperate income tax	***%	0-10
3	Program No 6, 12 & 13	Exemption and Reduction of Land and Water Rent	***%	0-10
4	Program No 8	Investment Credit by Vietnam Development Bank	***%	0-10
5	Program No 10 & 11	Provision for Raw Material (Wood) at Less Than Adequate Remuneration	***%	0-10
6	Program No 14	Provision for Electricity at Less Than Adequate Remuneration	-	-
		Total Subsidy	***%	10-20

617. Countervailing duty for all other producers/exporters from Vietnam has been determined based on the highest of the subsidy margins for the cooperating party, for the subsidies availed by them and based on facts available for other subsidy programs.

SN	Program No.	Name of the Schemes	Subsidy Margin %	Range %
1	Program No 3	Exemption of Import of Spare Parts	***%	0-10
2	Program No 4	Reduction of Cooperate income tax	***%	0-10
3	Program No 6, 12 & 13	Exemption and Reduction of Land and Water Rent	***%	0-10
4	Program No 8	Investment Credit by Vietnam Development Bank	***%	0-10
5	Program No 10 & 11	Provision for Raw Material (Wood) at Less Than Adequate Remuneration	***%	0-10
6	Program No 14	Provision for Electricity at Less Than Adequate Remuneration	***%	0-10
		Total Subsidy	***%	10-20

H. INJURY ASSESSMENT AND CAUSAL LINK

H.1. Submissions made by the Domestic Industry

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

- a) The Designated Authority is requested to cumulatively assess the effect of such imports as (a) the amount of subsidization in relation to the imports from each country is more than one per cent ad valorem; (b) the volume of imports from each country is not negligible and (c) a cumulative assessment of the effects of the imports is appropriate in light of the conditions of competition between the imported products and the like domestic product.
- b) Cumulative assessment appropriately includes Thailand and Indonesia due to its share and volume in imports, similar trends in imports, similar grades of PUC, interchangeability of the products, comparability of sales channel, and competition between them and the other subject countries.
- c) Demand for the subject goods has increased throughout the injury period in India.
- d) Imports from the subject countries have increased over the injury period in absolute terms. Imports from subject countries have also increased in relation to production and consumption. Imports from subject countries are undercutting the prices of the domestic industry.
- e) Comparison of cost of production, selling price of the domestic industry and landed price of imports shows that landed price of subject imports is significantly below the cost of production and selling price of the domestic industry in the proposed POI. Further, whereas the costs of the domestic industry increased during the POI, the Domestic Industry was forced to reduce the selling price. The imports are suppressing and depressing the prices of the Domestic Industry.
- f) The capacities with the Domestic Industry have increased considering the present and potential Demand for the product in the Country. The production of the Domestic Industry improved with the increase in capacities.
- g) The capacity utilization of the domestic industry declined significantly during the period under investigation. The capacity utilization has declined further thereafter due to COVID situation.
- h) With regard to Greenpanel not achieving optimum production due to capacity addition, the Company achieved higher capacity utilisation than average utilisation achieved.
- i) The sales of the Domestic Industry declined in 2016-17, thereafter improved in 2017-18 and the POI with the increase in capacities. The Capacity utilization rates remained low. The DI could have sold more considering the capacity addition and high demand but could not do so because of the subsidised imports. The decline in capacity utilization is due to inability to sell higher volumes due to subsidised imports.
- j) The market share of the Domestic Industry improved marginally with the increase in capacities and production.
- k) The per unit profits have more than halved during the injury period. This is due to the decline in selling prices caused by the price undercutting by subject imports. The profitability improved in 2016-17 and 2017-18, thereafter declined severely in the POI.
- l) The PBIT, Cash Profits and Return on Investment all declined severely over the injury period. Even if level of depreciation before POI is considered, cash profits of the domestic industry still decline.
- m) The productivity per day, employment numbers and wages all improved with the increase in capacities. The inventories with the Domestic Industry truly reflect the condition of the

market, whereby despite a roaring demand for the subject goods, the stocks with the Domestic Industry have increased by more than 4 times over the injury period.

- n) The negative growth in all price parameters during the POI showcases that the Domestic Industry is suffering injury.
- o) Annexure III of AD Rules should not be applied in CVD investigations for determination of non-injurious.
- p) Imports are undercutting the prices of the domestic industry. Resultantly, the volume of imports has increased significantly. Since imports are occurring at low prices, the domestic industry had to reduce its prices in order to sell increased volumes. The price pressures being felt by the domestic industry is because of subsidized imports. Price undercutting caused by the subsidized imports is preventing the domestic industry from increasing its prices.
- q) The price suppression and depression effect of subsidized imports from subject countries has resulted in significant erosion in profitability of the domestic industry. Deterioration in profits, return on capital employed and cash profits are directly a result of subsidized imports. The growth of the domestic industry became negative in terms of a number of economic parameters. Injury to the domestic industry is due to subsidized imports in the country. Imposition of anti-subsidy duties is imperative.
- r) The Domestic Industry cannot afford to bear any further setbacks in the form of its performance with regard to the product under consideration
- s) With regard to the argument that NIP is inflated due to the high cost of production in Greenpanel AP plant and Century compared to others, given the age of the plant, other plant costs are not representative.
- t) With regard to the argument that the NIP for all Indian producers should be similar if they are all affected by imports does not have legal or factual basis.
- u) With regard to the argument that cost of sales should be normated for injury analysis, the same does not have any legal basis.
- v) The subsidised imports need not be the only reason for injury. The fact that there are other reasons does not affect the causal link. While the Annual Report of the Petitioners focus only on the POI, the Authority focusses on the entire injury period. Moreover, the Annual Report is concerned about the overall performance of the Company while the DA is only concerned about its domestic operations.
- w) If only internal competition impacted the DI, then its market share should not have declined. The Annual Reports say MDF is replacing plywood and not the other way around.
- x) Increase in debt owed is not in the nature of "other factors" causing injury.
- y) The claim that the injury is due to internal deficiency is unsubstantiated.
- z) ADD and CVD are meant to address unfair practices. The PUC for the previous investigations were different.
- aa) Though there is a parallel SSR investigation on the PUC, the injury suffered by the DI is due to low priced imports which is a result of dumping and/or subsidies. The DI has not sought relief beyond the injury margin and there is no bar on simultaneous investigations. Reliance is placed on CESTAT order in Suncity Sheets Pvt. Ltd v. UoI.
- bb) The injury to the domestic industry has to be seen as it is and not in ideal conditions. The CESTAT order in M/s Nipol Zeon Co. Ltd., Japan v. Designated Authority is referred and relied on.

H.2. Submissions by other interested parties

619. The submissions made by other interested parties with regard to injury and causal link, are as follows:
- a) Applicants are misusing and enjoying protection since 2009, which shows that the injury is due to the internal deficiencies and not on account of the imports. Import volume has declined and import prices have increased. At the same time, DI's cost increased, price and profitability declined. This shows cost increase is due to capacity expansion.
 - b) Capacity additions, prudent level of capacity utilisation, and increase in production and sales show absence of volume effect and injury. Slight decline in price and profitability cannot be linked to subject imports.
 - c) The CVD Rules does not require the Designated Authority to conduct the injury analysis from the base year to POI.
 - d) The petitioners have attempted to mislead the Authority by comparing prices of all products to the import prices without considering PCN. The petitioners have not suffered any price suppression or depression.
 - e) Economic indicators in the NCV shows productive capacity increased by 174% in POI, which increased production by 61% in the same period. Sales improved by 49% in the POI. The Petitioners hired 181% more employees compared to base year. Productivity per day continued improvement and peaked at 171 index points in the POI.
 - f) Though profitability dropped by 59%, it is not caused by the imports from Indonesia. On the other hand, it was due to increase in costs (depreciation and amortisation expenses and interest/ finance cost which raised significantly in POI due to capacity additions). Profitability of the Domestic Industry has increased despite the alleged increase in price undercutting during 2016-17 and 2017-18. Decline in profitability during the POI occurred mainly due to the higher finance costs and depreciation expenses.
 - g) Domestic Demand has increased by 35 indexed points and Indian producers have been able to capture the market and increased their sales by 44 indexed points.
 - h) Petitioners are misleading Authority on price undercutting and price suppression/depression by comparing selling price by total import price without consideration to differences in prices of PCNs.
 - i) Slight dip in price and profitability parameters cannot be linked to the imports from the subject countries. It is because of significant capacity additions and unhealthy price competition among the domestic producers.
 - j) The DI made significant capacity additions over the years and the POI. The decline in capacity utilisation in the POI should be considered along with significant increase in capacity. Production and sales (both domestic and exports) have increased including through the POI.
 - k) The capacity additions have caused additional costs to the DI, and impacted the ROCE. The costs also increased because of increase in interest costs and wages as a result of declining productivity.
 - l) Finance cost increased by 80 indexed points in 2 financial years, Depreciation and Amortization expenses increased by 114 indexed points during the same period. Cash profits increased substantially throughout the injury period, except POI, due to the finance and

- depreciation expenses.
- m) An inverse relationship exists between the selling price of the DI and the import price. Imports from the subject countries declined (by 11%) and prices increased (by 4%) during the POI compared to the previous year. The import price does not have any suppressing effects on the DI. Market share of imports from subject countries has declined in the POI compared to the previous year by 6% which has benefitted the DI.
 - n) Volume of imports from Thailand has declined relative to increase in demand for subject goods in India. The import price of subject goods from Thailand has increased from 24,206 Rs/MT during 2017-18 to 26,274 Rs/MT during the POI. In comparison, the cost of DI has only increased by 5 indexed points. Therefore, there is no price undercutting. Thailand intends to increase price over Cost of DI, but low selling price of DI and prices from other import sources have impacted possible price increase.
 - o) Import price of Indonesia is 23-25% lower than Thailand. Moreover, the new entrants have a low domestic sales price. Thailand imports have declined because it finds the Indian market unviable due to low prices in the market.
 - p) The AB Report in *US- Lamb* described "serious injury" as a "very high standard of injury". The AB Report in *US- Wheat Gluten* ruled that serious injury means an overall impairment in the position of the DI and all factors relevant to the overall situation of the DI should be included in the authority's determination.
 - q) Injury if any, is from other sources such as Malaysia and Vietnam, whereby the imports have increased significantly.
 - r) The benefits received by Panel Plus MDF & Panel Plus Company, Vanachai Panel & Vanachai Group are insignificant and could not have caused injury.
 - s) Cumulative Assessment cannot be undertaken as under Annexure I of the CVD Rules. Thailand is the only country with declining imports in the POI and increasing price. Imports from Indonesia have declined significantly in both absolute and relative terms. Cumulation of injury is not appropriate.
 - t) Merbok MDF Lanka Pvt Ltd. is only one known exporter of the PUC into India from Sri Lanka and the Company has been operating at a loss in recent years. Production volumes have been decreasing during the injury period.
 - u) Annexure – III calculation of NIP, should be applied.
 - v) Share of imports of Sri Lanka is merely 3.97% of total imports, as per Rule 16(d) of the Rules, no developing country having share under 4% of the total imports can be considered for imposition of duties. Investigation has not been initiated against Brazil with 3.23% despite lower prices.
 - w) Authority is requested to normate cost of sales not only for NIP, but also for injury analysis as cost is inflated due to capacity additions.
 - x) Authority is requested to evaluate project report of second plant at Green Panel and its projections given to the financial lenders.
 - y) The Petition filed by domestic Industry shows various factors that indicate breach of the causal link:
 - i. Imports declined and import prices increased during the POI while volume parameters for the DI improved.
 - ii. Imports did not have an adverse effect on the price of the DI. There is an inverse relationship between the selling price of the DI and the import price. The price of the

- DI was impacted by internal price competition.
- iii. Increase in costs was caused by increase in capacity. Capacity additions also caused increase in interest cost and wages.
 - iv. Fall in profitability is due to fall in productivity.
 - v. Injury to the DI is due to internal competition and competition from plywood which is a substitute for the PUC. Extracts from the 2018-19 Annuals Report of Century Plywood show competition from the unorganised sector, the organised sector, and at last, foreign competition.
 - vi. Issues with regard to raw material availability which affects profitability. A down time in the Indian real estate industry etc also impacted domestic producers.
 - vii. Authority requested to segregate injury to the domestic industry due to intrinsic factors such as introduction of new production capacity, intense competition by new market players and other factors highlighted in the annual reports.
 - viii. Rushil operated at optimum levels in the POI and suffered losses in the laminates business, as per the financial reports.
 - ix. As per Annual Report of Century MDF was the biggest driver of business. Company had a low level of production, but revenue increased 161%. Capacity was increased and production started in the second half of the POI. Not expected to reach optimum level of production.
 - x. Annual Reports of the Applicant producers is an integral document for the investigation. It is stated that the Indian producers are suffering injury on account of shortage of raw material, competition between Indian producers and other factors.
 - xi. Greenpanel Rudrapur plant and Rushil have well established production without exceptional start-up costs whereas cost of production of Greenpanel AP plant and Century is disproportionately high. Such increased costs have inflated NIP for these two plants. Had the imports adversely impacted the Indian producer, the NIP of all the Indian producers should have been similar for all the domestic producers.
 - xii. Expectations of dealers/distributors for further price cuts resulted in increase in inventories with the DI. The same cannot be attributed to the imports.
 - xiii. Authority is requested to analyze the impact of substitutable products, which has a direct impact on the sales and sale prices of the subject goods.
 - xiv. In a parallel sunset review investigation on subject goods (with a slight variation), the domestic industry has claimed to have suffered the injury on account of dumped imports from China, Malaysia, Thailand, and Sri Lanka.
- z) The Applicants have included Sri Lanka as a subject country to prove non-existent injury. The cumulation of injury is in violation of anti-subsidy rules. The requirement of adequacy and accuracy as per the anti-subsidy rules have not been complied with. Share of Sri Lankan imports is below de minimis and hence ineligible. The Authority has not initiated the investigation against Brazil (since it accounts for only 3.23% imports) despite lower prices than some of the subject countries.
- aa) There is a significant decline in Indonesian imports in absolute as well as relative terms. Cumulation of injury is not appropriate.
 - bb) The cost of sales should be normated since the actual cost is inflated due to capacity additions. The capacity expansion has distorted the entire picture. The same is to be analyzed.

The project report of the second plant of Green Panel is to be analyzed.

- cc) Imports from the subject countries declined in POI compared to the previous year and import prices increased in the same period. Alleged subsidized imports were not in a position to impact the DI. The slight dip in profits and profitability cannot be linked to the imports. The DI has been able to increase their volume parameters and hence, the market share.
- dd) The DI has not suffered any injury as seen from volume and price parameters. Some temporary adversities have been projected due to huge capacity additions which does not warrant CVD measures.
- ce) There is no volume injury to the DI due to imports from Thailand since the volume of imports from Thailand has declined relative to increase in demand in India, and improvement in production, capacity utilization, and market share of the Applicants. Volume of imports from Thailand has not increased in absolute or relative terms.
- ff) There is no price injury to the DI due to imports from Thailand. The export price for Thailand has increased and there is no price undercutting due to the same. The Thai exporters were prevented from increasing prices due to low prices of Indian producers and imports from other sources. There is negative price suppression and depression.
- gg) Thailand is the only source among the subject countries from which the volume of imports has declined relative to total imports, production, sales as well as market share. The import price from Indonesia is significantly lower than that of Thailand and hence, they set the market price.
- hh) The DI has claimed an inflated NIP. The cost of production for Century Plyboard and Greenpanel AP plant is disproportionately and exceptionally high. The same is due to commencement/addition of production capacity during the POI and not due to imports. They should be rationalized in line with the NIP of other producers.
- ii) Petitioner's argument that NIP should not be calculated as per the AD Rules is flawed since a fair process for determining NIP should exist, the CVD rules require that the CVD must not exceed amount adequate to remove the injury to the DI, and past practice of the Authority shows application of the AD rules.
- jj) In case the Applicants have used logs for timber in manufacturing subject goods, then the same is the reason for injury since timber is much more expensive than residue.
- kk) The Annual Reports of the Applicants show that (i) significant capacity additions resulted in aggravated price cuts, (ii) they also impacted industry volumes badly since dealers were anticipating price cuts, (iii) they triggered lower realization and significant margin pressure in MDF segment, (iv) the margin pressure is short term, and (iv) plywood is a substitute of MDF.
- ll) As per the Annual Reports, the Indian producers are suffering injury on account of shortage of RM, competition between Indian producers, and other intrinsic factors.
- mm) Greenpanel set up new production capacity in Andhra Pradesh to cater to export market. The injury to Greenpanel due to higher cost of production at Andhra Pradesh should not be attributed to the domestic operations or alleged imports.
- nn) Capacity utilization declined due to significant capacity addition. Market takes time to absorb capacity additions. Hence, the injury is due to the capacity additions.
- oo) The reduction in selling price is due to severe competition among the domestic producers and down time in Indian real estate industry.
- pp) The companies also face challenges in RM availability. The expectation of price reduction

- by dealers/distributors led to price cut which resulted in increase in inventories.
- qq) Finance cost and depreciation cost increased due to increase in capacity.
- rr) The addition of capacities has impacted profitability and ROCE.
- ss) The cost increase is driven by increase in interest cost, increase in wage factor as a result of poor productivity.

H.3. Examination by the Authority

620. The submissions made by the interested parties have been analysed to examine the injury to the domestic industry on account of subsidized imports from the subject country.
621. As regards the issues of analysis of the injury parameters, it is noted that the same are addressed in the subsequent paragraphs while making injury analysis.
622. As regards the issue of capacity expansion, it is noted that the Domestic Industry has increased its capacity to cater the increased demand in the country.
623. As regards the submission that alleged injury to the Domestic Industry is due to other reasons and there is no injury as per statements in annual reports of the constituents of the Domestic Industry, the Authority notes that the injury analysis carried out hereunder is self-explanatory to establish that the subsidized imports from subject countries has caused injury to the Domestic Industry.
624. Rule 13 of the Subsidy Rules deals with the principles governing the determination of injury which provides as follows:

"13. Determination of Injury.-

(1) In the case of imports from specified countries, the designated authority shall give a further finding that the import of such article into India causes or threatens material injury to any industry established in India, or materially retards the establishment of an industry in India.

(2) Except when a finding of injury is made under sub-rule (3), the designated authority shall determine the injury, threat of injury, material retardation to the establishment of an industry and the casual link between the subsidized import and the injury, taking into account inter alia, the principle laid down in Annexure I to the rule.

(3) The designated authority may, in exceptional cases, give a finding as to the existence of injury even where a substantial portion of the domestic industry is not injured if –

- (i) there is a concentration of subsidized imports into an isolated market, and*
(ii) the subsidized imports are causing injury to the producers of almost all of the production within such market."

I. Cumulative Assessment

625. Annexure-I para (4) of the Rules provides that in case where imports of a product from more than one country are being simultaneously subjected to anti-subsidy investigations, the Authority will cumulatively assess the effect of such imports, in case it determines that:

- (a) the amount of subsidization established in relation to the imports from each country is more than one per cent ad valorem and the volume of imports from each country is not negligible and
- (b) a cumulative assessment of the effects of the imports is appropriate in light of the conditions of competition between the imported products and the like domestic product.

626. It is noted that:

- a. The amount of subsidy established in relation to the imports from each country is more than one per cent and
- b. the volume of imports from each subject country is above *de-minimis* and
- c. Cumulative assessment of the effects of import is appropriate as the exports from the subject countries not only directly compete with the like articles offered by each of them but also the like articles offered by the domestic industry in the Indian market. It is noted that the consumers who are buying from the domestic industry are also importing from amongst the subject countries.

627. In view of the above, it is considered appropriate to cumulatively assess the effects of subsidized imports of the subject goods from the subject countries on the domestic industry.

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

i. Assessment of Demand

628. Demand or apparent consumption of the product concerned in India is defined as the sum of domestic sales of all Indian producers and imports from all other countries. It is seen that demand has increased over the injury period. The demand so assessed is as follows-

Demand in India	Unit	2015-16	2016-17	2017-18	2018-19
Sales of Domestic Industry	CBM	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	100	119	149
Sales of Other Indian Producers	CBM	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	104	104	119
Imports from- Subject Country	CBM	1,79,805	2,19,031	3,44,199	2,95,472
Indonesia	CBM	47,051	37,905	35,953	36,343
Malaysia	CBM	23,869	46,049	53,447	73,707
Sri Lanka	CBM	23,263	17,247	20,590	13,854
Thailand	CBM	38,764	27,208	70,922	48,352
Vietnam	CBM	46,859	90,622	1,63,287	1,23,216
Imports from other countries	CBM	40,015	38,584	40,055	35,855
Total Demand in India	CBM	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	107	132	140

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

629. With regard to volume of the subject imports, it is required to consider whether there has been a significant increase in subsidized imports either in absolute terms or relative to production or consumption in India. Summarized position for the same is as below:

Import Volume	Unit	2015-16	2016-17	2017-18	2018-19
Imports from- Subject Country	CBM	1,79,805	2,19,031	3,44,199	2,95,472
Indonesia	CBM	47,051	37,905	35,953	36,343
Malaysia	CBM	23,869	46,049	53,447	73,707
Sri Lanka	CBM	23,263	17,247	20,590	13,854
Thailand	CBM	38,764	27,208	70,922	48,352
Vietnam	CBM	46,859	90,622	1,63,287	1,23,216
Imports from other countries	CBM	40,015	38,584	40,055	35,855
Total Import Volume	CBM	2,19,820	2,57,615	3,84,254	3,31,327
Subject Country Imports in relation to					
Imports	%	81.80	85.02	89.58	89.18
Production	%	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>115</i>	<i>164</i>	<i>114</i>
Consumption	%	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>114</i>	<i>145</i>	<i>118</i>

630. The Authority notes that the total volume of subject imports from the subject country has increased till 2017-18 and has marginally declined thereafter during period of investigation. However, the volume of imports from subject countries have increased as compared to 2015-16 and 2016-17. The imports from the subject countries in relation to production and consumption has also increased as compared to the base year.

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

631. With regard to the effect of subsidized imports on prices, it is required to be examined whether there has been a significant price undercutting by the subsidized imports as compared with the price of the like product in India, or whether the effect of such subsidized imports is otherwise to depress prices to a significant degree or prevent price increase, which otherwise would have occurred, to a significant degree.

i. Price Undercutting

632. In order to determine, whether the imports are undercutting the prices of the domestic industry in the market, the price undercutting has been worked out by comparing the landed price of imports with the selling price of the domestic industry during the injury period. The price undercutting has been determined for the POI separately for each PCN produced by the domestic industry and thereafter for the product under consideration as a whole. Summarized position for the same is given in the table below:

Particular	Unit	2015-16	2016-17	2017-18	2018-19
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Net sales realization	Rs/CBM	***	***	***	***
Subject Country as a whole					
Landed price of imports	Rs/CBM	17,061	14,415	13,828	14,294
Price undercutting	Rs/CBM	***	***	***	***
Price undercutting	%	***	***	***	***
Price undercutting	Range	25-35	45-55	55-65	35-45
Indonesia					
Landed price of imports	Rs/CBM	17,824	15,584	14,734	14,821
Price undercutting	Rs/CBM	***	***	***	***
Price undercutting	%	***	***	***	***
Price undercutting	Range	20-30	35-45	50-60	30-40
Malaysia					
Landed price of imports	Rs/CBM	17,076	14,654	15,680	15,907
Price undercutting	Rs/CBM	***	***	***	***
Price undercutting	%	***	***	***	***
Price undercutting	Range	25-35	45-55	40-50	25-35
Sri Lanka					
Landed price of imports	Rs/CBM	19,498	18,005	17,511	17,803
Price undercutting	Rs/CBM	***	***	***	***
Price undercutting	%	***	***	***	***
Price undercutting	Range	10-20	15-25	25-35	10-20
Thailand					
Landed price of imports	Rs/CBM	15,805	14,601	12,911	12,982
Price undercutting	Rs/CBM	***	***	***	***
Price undercutting	%	***	***	***	***
Price undercutting	Range	35-45	50-60	70-80	50-60
Vietnam					
Landed price of imports	Rs/CBM	16,117	13,246	12,955	13,292
Price undercutting	Rs/CBM	***	***	***	***
Price undercutting	%	***	***	***	***
Price undercutting	Range	35-45	50-60	70-80	50-60

633. It is noted that the landed prices of the subject goods from each of the subject countries were below the selling price of the domestic industry showing price undercutting being caused by the subsidized products from the subject countries during the injury period including the POI.

ii. Price suppression and depression

634. In order to determine whether the subsidized imports are suppressing or depressing the domestic prices and whether the effect of such imports is to suppress prices to a significant degree or prevent price increases which otherwise would have occurred to a significant degree, the changes in the costs and prices over the injury period has been considered. The position for the same is shown in the table below.

Particulars	Unit	2015-16	2016-17	2017-18	2018-19
Cost of Sales	Rs/CBM	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	96	100	107
Selling Price	Rs/CBM	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	98	102	93
Net Sales Realisation	Rs/CBM	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	98	101	91
Landed Price from subject countries	Rs/CBM	17,061	14,415	13,828	14,294
<i>Trend</i>	<i>Indexed</i>	100	84	81	84

635. Comparison of cost of production, selling price of the domestic industry and landed price of imports shows that landed price of subject imports is below the cost of production and selling price of the domestic industry in the POI. Further, whereas the costs of the domestic industry increased during the POI, however, instead of raising the selling prices in proportion with the increase the costs, the Domestic Industry was forced to reduce the selling price due to high volume of imports in the country at lower prices. The imports are suppressing and depressing the prices of the Domestic Industry.

iii. Price Underselling/ Injury Margin

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

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

638. The injury margin for cooperative producers/exporters and others are evaluated as under:

Country	Particulars	Non-Injurious Price (NIP)	Landed Price	Injury Margin		
		US\$/CBM	US\$/CBM	US\$/CBM	%	%, Range
Thailand	Vanachai Group Public Company Ltd. and Vanachai Panel Industries Co. Ltd.	***	***	***	***	50-60
	Panel Plus Co. Ltd. and Panel Plus MDF Co. Ltd	***	***	***	***	25-35
	Metro MDF Co., Ltd. and Advance Fiber Co., Ltd.	***	***	***	***	25-35

	Agro Fiber Co., Ltd.	***	***	***	***	1-10
	Green Fiber Co., Ltd	***	***	***	***	Negative
	Wisewoods Co. Ltd	***	***	***	***	25-35
	Any Other	***	***	***	***	55-65
Malaysia	Segamat Panel Boards Sdn. Bhd	***	***	***	***	30-40
	Robin Resources (Malaysia) Sdn. Bhd	***	***	***	***	35-45
	Any Other	***	***	***	***	40-50
Vietnam	MDF VRG Quang Tri Wood Joint Stock Company	***	***	***	***	15-25
	Kim Tin MDF Joint Stock Company	***	***	***	***	40-50
	Any Other	***	***	***	***	40-50
Indonesia	PT. Sumatera Prima Fibreboard	***	***	***	***	20-30
	PT. Mukti Panel Industri	***	***	***	***	35-45
	Any Other	***	***	***	***	40-50
Sri Lanka	Any Other	***	***	***	***	15-25

IV. Economic parameters relating to the domestic industry

639. The Rules require that the determination of injury shall involve an objective examination of the consequent impact of these imports on domestic producers of such products. With regard to consequent impact of these imports on domestic producers of such products, the Rules further provide that the examination of the impact of the imports on the domestic industry should include an objective and unbiased evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments. Accordingly, performance of the domestic industry has been examined over the injury period.

i. Production, capacity, capacity utilization and sales

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

Particulars	Unit	2015-16	2016-17	2017-18	2018-19
Installed Capacity	CBM	***	***	***	***

<i>Trend</i>	<i>Indexed</i>	100	100	137	273
Production Quantity	CBM	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	108	128	167
Capacity Utilization	%	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	108	94	61
Domestic Sales	CBM	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	100	119	149

641. It is noted from the table above that:

- The domestic industry has enhanced its capacity in 2017-18 and in the POI. The domestic industry submitted that the capacities were increased having regard to present and potential demand for the product in the country.
- The production and sales of the Domestic Industry has also increased with the increase in its capacities.
- The capacity utilization of the domestic industry increased in 2016-17 but declined in 2017-18 and further during period of investigation.

ii. Market Share

642. The market share of the domestic industry and imports over the injury period is as under:

	Unit	2015-16	2016-17	2017-18	2018-19
Domestic industry	%	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	94	90	107
Other Indian Producers	%	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	98	79	85
Imports from- Subject Countries	%	***	***	***	***
Other Countries	%	***	***	***	***
Total Demand	<i>Indexed</i>	100	100	100	100

643. It can be seen that the market share of the domestic industry improved marginally with the increase in its capacity and production.

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

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

Particulars	Unit	2015-16	2016-17	2017-18	2018-19
Cost of Sales	Rs/CBM	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	96	100	107
Selling price	Rs/CBM	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	98	102	93
Profit before tax	Rs/CBM	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	109	107	39

Profit before Tax	Rs. Lacs	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	108	127	58
Profit before interest and Tax	Rs. Lacs	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	104	122	71
Cash Profit	Rs. Lacs	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	107	138	86
Return on capital employed	%	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	115	66	24

645. It is seen from the table above that:

- The profit of the domestic industry improved in 2016-17, then declined marginally in 2017-18 and thereafter declined in the POI.
- The PBIT and Cash Profits of the domestic industry increased till 2017-18 and declined during period of investigation.
- The Return on investment followed the same trend as profits. The domestic industry's return on capital employed has gone down to ***% in 2018-19 from ***% in 2015-16. Therefore, there has been a decline in return on capital employed over the injury period and the POI.

iv. Inventories

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

Particulars	Unit	2015-16	2016-17	2017-18	2018-19
Inventory – Average	CBM	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	151	344	448

647. It is noted from the table above that the average inventories with the domestic industry has increased by more than 4 times over the injury period despite increase in demand for the subject goods.

v. Employment, wages and productivity

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

Particulars	Unit	2015-16	2016-17	2017-18	2018-19
Employment	Nos	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	102	202	281
Productivity per day	CBM	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	108	119	146
Productivity per Employee	CBM	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	106	64	60
Wages	Rs. Lacs	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	113	146	244

649. It is noted that the employment, wages and productivity of the Domestic industry have improved over the injury period.

vi. Ability to raise capital investment

650. It is seen that the domestic industry has enhanced capacity for the subject goods over the period, making capital investment. However, despite increase in demand, the capacities are lying underutilized which is an impact of subject imports. This has impacted the ability of the applicants to raise its capital.

Conclusions on Injury

651. The Authority notes that the imports have increased significantly in absolute terms as well as in relation to production and consumption in India. The imports are undercutting the prices of the domestic industry and have had a suppressing and depressing effect on the prices of the domestic industry. The price underselling/injury margin of each of the responding producers from subject countries is also positive. The capacity utilization of the domestic industry has declined. It is seen that the domestic industry is suffering from underutilized capacities, despite increase in demand. Further, the profits, cash profits, PBIT and return on capital employed of the domestic industry has declined significantly over the injury period. Inventories with the domestic industry has increase significantly over the injury period. Accordingly, the Authority concludes that the domestic industry has suffered material injury

V. Causal Link

652. It has been examined whether other known factors could have caused injury to the domestic industry and the same is as follows:

a. Volume and prices of imports from third countries

653. The imports from other countries are either insignificant in volume or at higher prices.

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

654. It is noted that there is no contraction of demand. On the contrary, overall demand for subject goods has shown improvement over the injury period. Further, there have been no changes in the pattern of consumption which could have caused injury to the domestic industry.

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

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

d. Developments in technology

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

e. Export performance of the domestic industry

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

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

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

VI. Factors relevant for causal link

659. It is noted that: -

- a. The imports of subject goods in the country are at low prices than the domestic industry prices.
- b. Subsidized imports from subject countries are coming into India in substantial volumes.
- c. The imports are undercutting the prices of the domestic industry,
- d. The price suppression and depression effect of subsidized imports from subject countries has resulted in deterioration in profitability of the domestic industry.
- e. Deterioration in profits, return on capital employed and cash profits are a result of subsidized imports.

Conclusion on Causal Link

660. It is noted as under:

- a. Subsidized imports from the subject countries have been imported into India in substantial volumes during the POI
- b. Imports have undercut the prices of the domestic industry during the injury period.
- c. Performance of the domestic industry has deteriorated during POI in terms of capacity utilization, profits, cash profits and ROI. Inventories with the domestic industry has increased significantly.

661. The Authority therefore holds that there is a causal link between the subsidization of the subject goods and the injury suffered by the domestic industry.

J. POST-DISCLOSURE COMMENTS

662. The disclosure statement was issue by the Authority on 21.04.2021 disclosing essential facts of the case and inviting comments thereon from all the interested parties. The post-disclosure submissions have been received from the interested parties. Majority of the issues raised are reiterations and have already been raised earlier and also addressed appropriately. Additional submissions to the extent deemed relevant have been examined as under.

Submissions by Domestic Industry

663. The following submissions have been made by domestic industry:
- i. None of the Sri Lankan producers/ exporters has filled the questionnaire response. Therefore, the subsidy margins should be re-fixed at the levels of previous disclosure
 - ii. The subsidy margin for FSC Vietnam Corporation has not been determined in the Disclosure Statement.
 - iii. S. Kijchai Enterprise has disregarded the instructions by the Authority and filed a non-confidential response just by stating "refer to confidential version". The questionnaire responses filed by Advance and Metro are excessively confidential without proper reasoning. A non-confidential version of the Importer Questionnaire Response by Thamarapally was never served onto the domestic industry. The response of S Kijchai's, Wisewoods Co. Ltd and Thamarappally was rejected in the recent anti-dumping duty findings against imports of MDF below 6mm as well because of excessive confidentiality. Responding producers/exporters had availed certain programs and the same was suppressed by them in their EQR's.
 - iv. The Authority is requested to consider the alternatives proposed by the Domestic Industry other than the prices of export of logs from New Zealand to India.
 - v. Only Thamarapally has filed a response and they also showed no commitment with the investigation post filing of their response. Further, no user has participated in the investigation. The lack of opposition from users in India show that they do not consider significant adverse impact on them as a result of the present investigation. Further, it is in the consumers' interest to have a competitive domestic industry capable of supplying the product to the consumers in competition to fair priced imports.
 - vi. Consideration of actual cost of production instead of NIP is appropriate in a CVD case, considering that the issue under consideration is a countervailable benefit being extended by the exporting countries.
 - vii. The imposition of anti-subsidy measure on imports of product under consideration would be in the interests of domestic manufacturers. It is in the interest of the public at large to have a strong, competitive domestic production. The subject goods manufacturing industry is a labour-intensive, capital intensive and provides large-scale employment. The eventual impact of duty on the cost of the eventual end products will be insignificant.
 - viii. Due to widening trade deficit and dwindling forex reserves, it is important to rely more on the domestic production capacities. Further, being agro-based, the product has significant potential to increase farmers' income.
 - ix. The Authority is requested to quantify Program Nos. 4, 6, 8, 9, and 10 for Indonesia, Program Nos. 1-6, 8, 10, 11, 16, 17, and 18 for Malaysia, Program Nos. 1, 3, 4, and 5 for Sri Lanka, Program Nos. 2, 3, 8, 10, 11, and 12b for Thailand, and Program Nos. 1 and 2 for Vietnam.
 - x. The Authority is requested to hold Program 3 for Indonesia as countervailable.
 - xi. The duty for group companies should be cumulated.
 - xii. The domestic industry has suffered injury due to the subsidized imports from the subject countries

Submissions by other Interested parties

664. The following submissions have been made by other interested parties
- i. Program No. 1 and 2 programs are not countervailable within SCM Agreement as the DGTR failed to be established in both disclosure statements that these two programs entailed any financial contribution or did it confer any benefit to Indonesian producers of PUI. The GOI's policies through these two programs are very general nature as the GOI applies its function as the government. The GOI never determines to whom the private seller should sell their rubber

- woods, let alone to determine the price. The GOI applies no sanction for any failure to conclude a transaction if it is commercially not feasible; it is possible that no transaction can be concluded. The provision of goods at LTAR SCM Agreement requires the existence of a government entrusted body that is mandated or directed to provide the production material at LTAR, which cannot be established by the DGTR.
- ii. The second Disclosure Statements even made no single evaluation of factors related to the very fact that there is a different between (1) logs and woods, (2) logs and leftover woods; (3) log and leftover rubber woods.
 - iii. As there exists significant availability of rubber woods from private parties, the DGTR should rely only on their price and cannot therefore use New Zealand as alternative of benchmarking. Therefore, the DGTR cannot draw the conclusion that such prices are a consequence of subsidy or benefit given by the GOI.
 - iv. In Program No. 3 and 4, the GOI agrees with the DGTR that no countervailing duty should be imposed against the responding exporters/producers under these two programs.
 - v. In Program No. 5 the master list program is available across sectors. It is not limited by region therefore is not specific and not countervailable.
 - vi. In Program No. 6,7,8,9 and 10 the GOI fully agrees with the DGTR's conclusion that none of the responding producers/exporters have availed benefit under these five programs.
 - vii. Program no. 11a the Indonesian producers of PUI acquired their land from the private parties and it has nothing to do with the GOI. Further, the benchmark of Factory prices in Tangerang is not appropriate as it is very far from the location of the companies under investigation which is in Sumatra Island. The cooperating producers did not procure the factory land from GOI nor does it belong to the GOI.
 - viii. In Program No. 11b the GOI submits that Indonesian producers of the PUI do not use coal in their production process. PLN is carrying out public service to whole Indonesian Industry and society. It does not serve specific industry.
 - ix. The Authority well recognises that responding producers/exporters of Indonesia do not use coal in their production process. However, coal is available to PLN at a rate below the market rates. The program is specific since the benefit of coal at cheaper rates is available to the only power supplier in Indonesia which ultimately makes it possible for PLN to provide electricity to consumers at a subsidized rate.
 - x. Subsidy calculation method must be carried out transparently and adequately described by DGTR and here should be only one subsidy rate for each program.
 - xi. An objective examination of relevant economic parameters shows that India's domestic industry is not suffering material injury during the injury period.
 - xii. Countervailing measure should not be imposed unless it is determined that there are subsidized imports, injury to a domestic industry, and a causal link between the subsidized imports and the injury that shall be supported with evidences.
 - xiii. The manner in which the new programs are included without following any due process is a serious violation of fair procedural aspects.
 - xiv. Program No, 20, 21 and 22 were not initially listed in the petition and Notice of Initiation. Insertion of additional programmes without undergoing the rightful clarification process with GOM and the Malaysian Domestic Industry are afterthoughts.
 - xv. DGTR totally disregarded GOM responses and resorted to the Petitioner's skewed allegations and misleading evidences.
 - xvi. GOM's response also indicate that DGTR had pre-judged the outcome of the case, regardless of the responses and cooperation provided by interested parties.
 - xvii. The Petition lacks adequate and accurate evidence and does not meet legal requirements as stipulated under the WTO ASCM.

- xviii. Injury suffered by Petitioners may be self- inflicted and has no linkage to imports of PUC from Malaysia.
- xix. There are no any other subsidy schemes specific to the sector concerned hence there is no valid reason for GOM to provide response under other subsidy schemes.
- xx. The Rubber Replanting Subsidy Act No. 36 of 1953 is established for the purpose of developing the local rubber industry and this law had been introduced long time before the establishment of the fiber board industry in Sri Lanka. Therefore, GOSL denies the fact that the fiberboard industry currently in operation has benefitted from the alleged rubber planting subsidy.
- xxi. Licensing procedure of exporting rubber logs has been established in Sri Lanka according to the Imports and Exports Control Act No. 01 of 1969 and operated by the controller of import and exports of the GOSL. The said laws were not implemented with the objective of providing benefits to the fiberboard industry.
- xxii. One of the intentions of the GOSL by the legislation was to reduce deforestation in the country but not providing benefit to fiberboard industry.
- xxiii. Electricity is considered as a public utility in Sri Lanka and therefore it is considered as a responsibility of the government to ensure that every citizen of the country has access to electricity.
- xxiv. Provision of electricity by the government ceases to be specific because it is sufficiently and broadly available throughout the economy as not to benefit a particular limited group of producers of certain products.
- xxv. Authority has neither recorded nor evaluated the information that was provided by RTG in its questionnaire response. Authority has also violated the SCM Agreement by including "Other Subsidy – Loans" within the scope of the investigation as the Authority has neither initiated the investigation nor include the same in the new subsidy allegation questionnaire.
- xxvi. Authority has not provided the benchmark price adopted for determination / quantification of subsidy margin.
- xxvii. Programs No. 1-8 are not specific and therefore, do not qualify as subsidy in terms of the SCM Agreement.
- xxviii. In Program No. 1, 3 and 4, the criteria for granting are equally on a voluntary basis, not on a selective rationale and are open to all enterprises in an industry-wide coverage manner and not specific and hence is not countervailable.
- xxix. In Program No. 2 RTG strongly confirms that the benefit under Section 36 is in accordance with/ applicable under the SCM agreement. It is not countervailable as Section 36 operates like duty drawback.
- xxx. In Program No. 5, 9 and 12b the Authority proposed not to recommend levy of duty. The RTG requests the Authority to confirm the same in the final findings. The RTG also extends cooperation and undertakes to furnish information/data, as requested by the Authority.
- xxxi. Program Nos 6 and 7 are not specific. Companies apply for BOI investment promotion on a voluntary basis. The Authority proposed not to recommend levy of duty under these programs.
- xxxii. Program No. 8 does not cause any injury to Indian domestic market since the exemption of income tax on dividends derived from the promoted activity under Section 34 is benefited only to shareholders of the company and not to the company. The Authority proposed not to recommend levy of duty under this program.
- xxxiii. In Program No. 10 EXIM bank provides the export credit insurance to all sizes of business including micro enterprises, SMEs and large corporations registered in Thailand without any specific industry. The Authority proposed not to recommend levy of duty under this program.
- xxxiv. In Program No. 11 the Authority's evaluation/understanding is completely erroneous as EXIM bank does not offer loans under this program. Instead, this program provides long-term credit insurance for exports, and EXIM bank has no Indian buyers. The Authority proposed to hold that

- this program is not countervailable The RTG extends cooperation and undertakes to furnish information/data, as requested by the Authority.
- xxxv. In Program No. 12a for privately- owned forest areas, there is no obligation to pay stumpage /standing timber fee. There is no financial contribution by the RTG in form of wood/raw material for producing / exporting the PUC. Rubberwood, renewable rubberwood and eucalyptus wood are not prohibited wood.
- xxxvi. As the price and harvesting of wood in New Zealand is regulated by the Government, the export price of wood from New Zealand to India cannot construe as an appropriate benchmark.
- xxxvii. In Program No. 13 Provincial Electricity Authority and Electricity Generating Authority of Thailand is operating at profit and therefore, not supplying electricity below cost.
- xxxviii. Plyboard should be included within the scope of PUC as it is like product to fibreboard and the same is made up of wood fibers bonded with raisins and other organic substances.
- xxxix. Petitioners have not provided any intelligible information with respect to their production or market share and the Authority has also not disclosed their share in India's domestic production.
- xl. The Petitioners have claimed all information like demand, production quantity, sales quantity, etc. as confidential and provided only the indexed numbers.
- xli. Conversion of CBM into MT may not reflect the actual volume and prices of imports since CBM and MT do not have a linear relationship for conversion.
- xlii. Petitioners have not suffered any volume injury on account of exports from Thailand, or any price suppression or depression since the Petitioners have been able to move the domestic selling prices commensurate to the cost of sales.
- xliii. The Authority should determine Consolidated Margin for Agro Fiber Co. Ltd. and Green Fiber Co. Ltd.
- xliv. The Authority has either not considered various critical arguments and submissions raised by the respondents or the same has not been dealt with.
- xlv. There is inappropriateness in using the prices of logs/premium wood from New Zealand as benchmarking the appropriate prices of "rubber wood waste in Indonesia", submission regarding the Ministry of Commerce itself distinguishing Rubber wood and Timber wood in its document titled National Rubber Policy 2019, the nature of Program No. 1 being taxation proves that it is not a financial contribution.
- xlvi. The procurement of land by respondents from Farmers under Program No. 11 being non-applicable.
- xlvii. The Authority did not provide adequate opportunity to all the interested parties to effectively defend their rights and interests in accordance with India's WTO obligations, Indian CVD Rules, and the vital principles of natural justice.
- xlviii. The Authority has used benchmarking in multiple instances to compute subsidy margin for wood, land and electricity. However, none of the benchmarks used for computing the subsidy margins for the respondents have been provided .
- xliv. The Authority has stated in paragraphs 41 and 42 that it can add a new scheme not included in the initiation notification, at any stage of the investigation. It is submitted that the Authority is bound to follow due process of law after such new schemes are added in the investigation, which was not followed in the present investigation. Even after adding the new scheme, the Authority did not provide the interested parties including the exporters adequate opportunity to submit information, rebut the alleged subsidies under such schemes, and an opportunity of hearing to address the Authority on all such newly added issues.
- l. Program No. 1 & 2 - The Authority has noted in paragraphs 70 and 71 of the Disclosure Statement that since the Respondents are using rubberwood waste/residue, taking the prices of rubberwood instead of the prices of rubberwood waste/residue would be misleading and lead to false calculations. Even after such agreement, the Authority took a contradictory stand by using

timber prices prevailing in New Zealand. Despite such acknowledgement and subsequent use of the same, the ratio calculated by the Authority and the basis of such calculation have not been shared with the Respondents.

- ii. The Disclosure Statement does not contain the required country-wise price underselling / injury margin analysis, which needs to be a part of the disclosure statement in accordance with the Rules as well as the consistent practice of the Authority.
- iii. The Authority proposes to determine a highly inflated and skewed subsidy duties for the respondents on the basis of certain illogical, illegal, and misconceived premise.
- liii. The approach of the Authority to combine Schemes 1 and 2 for the purpose of subsidy calculation is erroneous, illegal and the specific provisions of ASCM because schemes 1 and 2 are independent to each other and are distinct in operation and function. While Scheme No. 1 pertains to the allegation of the petitioner with respect to "provision for standing timber at LTAR", Scheme No. 2 pertains to the government prohibition on log exports in Indonesia. Schemes 1 & 2 have been presented by the petitioner in the NCV version as separate schemes and the Respondents also responded to them separately. Thus, there was no occasion for the Authority to combine all the aforementioned schemes for the purpose of subsidy determination.
- liv. The Authority has erroneously concluded and determined the countervailability of the schemes 1 & 2 vis-à-vis the respondents.
- lv. Program no. 1 & 2 are not applicable on them as the said scheme is specific to timber users, and the Respondents do not use standing timber at all for producing the PUC, and procure the raw material, i.e., rubberwood waste/residue from private plantations.
- lvi. Further, the scheme does not provide any financial benefit by the GOI, but rather authorizes the government to collect tax or revenue in the form of "stumpage fees". The "stumpage fees" payable to the Government of Indonesia are incidence of taxation by the GOI, and not a case of subsidy.
- lvii. As regards the export ban and other export restrictions on logs, by no stretch of imagination can an export ban / restriction be regarded as a subsidy. The WTO Panel has already clarified this in United States – Measures treating exports Restraints as Subsidies (WT/DS194/R), wherein the Panel concluded that an export restraint as defined in this dispute cannot constitute government-entrusted or government-directed provision of goods in the sense of subparagraph (iv) and hence does not constitute a financial contribution in the sense of Article 1.1(a) of the SCM Agreement.
- lviii. As regards the Program no. 5, the Authority despite noting that the program is specific to only those enterprises that meet the eligibility criteria prescribed by the Government, no such examination has been undertaken by the Authority to suggest that the Respondents meet such criteria and/or are eligible for such benefit.
- lix. As regards Program no. 11a, the Authority has proposed to impose Countervailing Duties on the basic premise that 'factory land' was provided to the respondents at LTAR. Such an allegation was never raised by the applicants at any stage of the investigation. Therefore, the inclusion of the present program and the proposal of Countervailing Duties therein is in direct violation to the principles of natural justice.
- lx. The Respondents have procured the land directly from private parties and not directly or indirectly from the Government. The evidence of the purchase of land from farmers has already been placed on record as a part of the earlier submissions made by the respondents. Therefore, the whole basis of the Authority for considering this scheme countervailable for the respondent is incorrect and no subsidy margin can be recommended for scheme no. 11a. Moreover, no reason has been provided in the disclosure statement as to how the program no. 11a is specific to an enterprise or industry or group of enterprises or industries. Therefore, the disclosure statement did not adhere to the criteria prescribed under Article 2 of the ASCM with respect to the countervailability of the present program.

- lxi. As regards the benchmarking the factory land price, it is submitted that the price of some arbitrarily chosen industrial land in Tangerang cannot be considered as an appropriate benchmark. In the recently concluded investigation of Flat Rolled Products of Stainless Steel (FPSS), the Authority has also not recommended any subsidy margin in the context of land procurement.
- lxii. The Authority has falsely held scheme no. 11b to be countervailable and suggested subsidy margin, which clearly shows that the Applicants have not availed any benefit of electricity at subsidized rates. There is no evidence or merit to that effect, and the Authority has also failed to substantiate its observation with any evidence.
- lxiii. The legal standards under Article 2 of ASCM have not been met, which requires that a program to be countervailed needs the findings of specificity "to an enterprise or industry or group of enterprises or industries". In this regard, the conclusion of the Authority in para 141 stating that the program ensures that coal is available to only power supplier in Indonesia (PLN), there is no finding of specificity viz. "an enterprise or industry or group of enterprises or industries" as required under Article 2. In this regard, the WTO Panel in US- Upland cotton stated that some subsidies are broadly available and widely used throughout an economy and are therefore not subject to the Agreement's subsidy disciplines.
- lxiv. The Disclosure Statement relies upon an arbitrary source to benchmark prices to compute subsidy margin and relied upon the prices provided as per the website of 'global petrol prices'. There is nothing in the disclosure statement to indicate that any step has been taken by the Authority to verify the authenticity and veracity of the information available on the said website.
- lxv. Authority examined that the coal is available to PLN at prices below the market rates, it is submitted that there is merely a ceiling on the price at which PLN shall procure coal, without receiving any financial benefit as such. There is no compulsion that coal has to be necessarily supplied at this price. PLN is free to procure coal from thousands of private suppliers /miners in the country. It needs to be appreciated that PLN is a huge buyer of coal and is in a position to get coal at better prices. Please also note that even the ceiling price fixed for the PT Bukit Asam is based on the formula of production cost plus margin which covers profit and risk of the mining company in the minimum amount of 15% and the maximum amount of 25% of total production cost. Therefore, coal is not made available to PLN at less than market value.
- lxvi. The applicant has not suffered any injury on account of the imports from Indonesia, and any injury suffered by the applicant is on account of factors other than the imports of the subject goods from the subject countries.
- lxvii. The injury information provided in the application corroborates with the Industry overview provided in the Rushil Decor Limited's Annual Report for POI which clearly established that the imports from subject countries have not caused any injury to the applicant as the capacity utilization of the applicants declined due to significant capacity addition (Increased by 173% in the POI as compared to the base year) made by them during the POI. In other words, the that addition of capacity from 180000 CBM to 540000 CBM i.e., twice the existing capacity has resulted in lower utilization.
- lxviii. The excessive addition of capacity has also caused an increase in the inventories.
- lxix. Any decline in the net sales realization of the Domestic Industry is due to the internal competition and because of the excess supply in the market. The significant capacity additions by the Indian industry ultimately triggered to lower realizations and significant margin pressure in the MDF Segment. However, this phenomenon is of short term in nature and the situation will stabilize soon.
- lxx. The Authority has not provided any details with respect to the calculation methodology and calculations to arrive at subsidy margin. Metro Group vide email communication dated April 21, 2021 requested the DGTR to share such calculations. The DGTR has only provided the landed value figures and actual subsidy margin figures for Metro Group but did not provide information

regarding benchmark figures for instance the exact wood product from New Zealand for Program 12 (a), source of the information along with a complete calculation sheet (excel) for calculating subsidy margin for Program 12 (a) and Program 13. The Hon'ble Supreme Court in *Reliance Industries Ltd. v. Designated Authority & Ors*, has noted that the DGTR is required to disclose the details of the calculations computed on the basis of data submitted by the interested parties themselves and cannot claim confidentiality on such information. The principle applies even in cases where the DGTR has sought to rely on information from other public sources such as in this case, the information regarding benchmark prices and calculation of the subsidy margin.

- lxxi. Thai Program 12 (a) has been erroneously countervailed: To the extent the DGTR's analysis regarding Program 12 (a) is the same as First Disclosure Statement, Metro Group reiterates its submissions in paragraphs 63 – 68 of its Comments on the First Disclosure Statement. DGTR has failed to take into consideration Metro Group's submissions in its Comments on the First Disclosure Statement. Metro Group specifically submitted that DGTR's observation in paragraph 466 of the Second Disclosure Statement (which is the same as paragraph 322 of the First Disclosure Statement) regarding royalty in Thailand not exceeding the limit of 40 Bhat per cubic meter set forth in the schedule to the National Reserve Forest Act, 1964 is incorrect because the National Reserve Forest Act, 1964 was amended in 2016 and the timber royalty rate is currently 400 Baht per cubic meter.
- lxxii. The DGTR offers no source for its statement that prices in New Zealand are free from government intervention. In any event, the DGTR offers no rationale as to why New Zealand prices of wood chips can be taken as benchmark for rubberwood and eucalyptus wood for Thailand. In particular, the DGTR offers no analysis of: (i) why New Zealand can be taken as an appropriate benchmark despite different levels of economic development of the two countries; (ii) what adjustments, if any, the DGTR undertook to adjust the price of wood chips for rubberwood.
- lxxiii. The Authority has failed to take into consideration the information provided by Metro Group in its additional questionnaire response filed on March 31, 2021 whereby the details of all its purchases of rubberwood and eucalyptus wood during the POI, including quantity purchased, value, and unit price and established that it does not procure rubberwood/eucalyptus wood from the government or any government-controlled authority and purchases them at market rates. The Authority also failed to acknowledge or disclose this essential fact as part of the Second Disclosure Statement in accordance with Rule 18 of the CVD Rules. The DGTR has simply made a conclusionary statement and declared Program 12 (a) as countervailable and has not even provided the calculation methodology based on which it calculated the subsidy margin.
- lxxiv. Thai Program 13 has been erroneously countervailed: Metro Group reiterates its submissions from its Comments on the First Disclosure Statement and that the DGTR has failed to disclose calculation methodology adopted to arrive at subsidy margin. The DGTR's analysis with respect to Program 13 is incorrect due to the following reasons:
- lxxv. DGTR has not provided any evidence or analysis with respect to Program 13 being a countervailable subsidy. For instance, the DGTR has incorrectly noted that benefit is specific because the benefit is enjoyed by those consumers that are provided a uniform tariff policy in the provincial service areas. This is incorrect. In fact, there is no uniform tariff and tariff depends on the type of entity, type of service, and time of use after taking into consideration peak charges, off-peak charges, demand charges, etc.
- a) Provincial Electricity Authority ("PEA") is the sole supplier and distributor of power to all the users of electricity in key provinces in Thailand and no evidence on record shows that the tariff from the PEA is at subsidized rates.
 - b) The DGTR has not taken into consideration Metro Group's previous submissions including the information provided in the additional questionnaire response that Metro Group purchases

electricity at arm's length prices and like the practice in several other countries including India, electricity tariffs in Thailand are regulated by statutory bodies or government authorities and tariffs are fixed at market rates.

- c) The DGTR has also failed to disclose the benchmark price used to arrive at the conclusion that electricity is purchased at prices lower than market rates, or the methodology used to calculate the subsidy margin.
- lxxvi. . The notice seeking information on the newly alleged subsidy programs was clearly a failed attempt to remedy the due process violations it had already committed with a predetermined conclusion.
- lxxvii. Metro Group pre-empted the DGTR's approach and highlighted in its response dated March 31, 2021 that the additional questionnaire was issued only to put a gloss of due process on an inherently flawed investigation and violation of principles of natural justice cannot be remedied through tokenism or a gloss of ostensibly following processes when a quasi-judicial authority is already predisposed. The pre-determined approach of the DGTR is further confirmed by the fact that the Second Disclosure Statement is largely a reiteration of the First Disclosure Statement (with certain limited incremental changes) and that the DGTR has not taken into consideration any of the information provided by Metro Group in its additional questionnaire response.
- lxxviii. The scope of the PUC does not include Hardboard.
- lxxix. Program No. 2 is a permissible tax exemption program in accordance with Annex I (i) of the SCM Agreement and paragraph (i) of Part-1 of Annexure III of the CVD Rules. Accordingly, Program No. 2 is not countervailable.
- lxxx. DGTR must disclose the total Indian production figures and percentage share of the Petitioners' production for interested parties to meaningfully comment on standing on the Petitioners.
- lxxxi. DGTR failed to address Metro Group's submissions regarding injury assessment being conducted in the cubic meters (i.e., CBM) and on Domestic Industry not suffering injury on account of imports of PUC from Thailand.
- lxxxii. Robin used Rubber wood and that is not a notified forest produce. Company procured rubber wood as per the price determined by the market and no Government interference as envisaged in the ASCM was evident. Wood at less than fair value is an unsubstantiated observation, and request the Authority to reverse the margin under program 20.
- lxxxiii. With regard to Kim Tin, Program No 6, 12 & 13 shows a substantial margin, which doesn't have basis of such calculation, it is only requested that the Authority may crosscheck the calculations. Program No 10 & 11 also did not bestow any benefits to the Company.
- lxxxiv. With regard to MDF VRG, Program No 10 & 11 did not bestow any benefit on the Company and the wood was purchased at market rates.
- lxxxv. With regard to Panel Plus and Panel Plus MDF, margins found under Program No 12a has no basis.
- lxxxvi. With regard to Vanachai Group and Vanachai Panel, margins found under Program No 12a are not justified. The Companies purchased wood at market rates and no Government supplied the wood at less than fair value as envisaged in ASCM.
- lxxxvii. The performance of the domestic industry has improved tremendously in the post POI period. Imports from subject countries declined in the POI over the previous year coupled with an increase in price which shows declining trend of imports with positive price increase.
- lxxxviii. Significant capacity additions by the domestic industry, very prudent level of capacity utilization, increase in production, increase in sales shows absence of any volume effects and injury.
- lxxxix. Slight decline in price and profitability parameters during the POI cannot be linked to price of imports from subject countries in any manner.
- xc. The petition shows various factors which evidence breach of causal link which is not considered in not addressed properly in the Disclosure.

Examination by the Authority

665. As regards the contention of the Domestic Industry that subsidy margins for Sri Lanka should be re-fixed at the levels of previous disclosure, the Authority notes that it has quantified the subsidy margins for all the subject countries including Sri Lanka following uniform principles.
666. As regards consideration of actual cost of production instead of NIP, the Authority considered it appropriate to follow the principles laid down in Anti-Dumping Rules at Annexure III, consistent with the methodology applied in previous anti-subsidy investigations.
667. As regards the contention that the Authority has either not considered various critical arguments and submissions raised by the respondents or has not dealt the same, the Authority notes that the present determination is based on due and appropriate consideration of various submissions made by the interested parties at various stages of the investigation at relevant paragraphs of this Final Finding. The Authority has been constrained to rely on facts available at a number of places in view of insufficient information from the interested parties.
668. As regards distinction between Rubber wood and Timber wood, the Authority notes that the responding exporters/producers from Indonesia have misconstrued the relevant text of the National Policy document. The word "timber" has been used for various kinds of wood, including rubber wood. Further, the responding exporters have projected, without establishing the same, as if entirety of their production is out of rubberwood waste/residue.
669. The Authority also notes that reports, national laws, policy documents of various countries suggest that rubberwood is considered as a part of timber and is being used in the downstream industries which also include fiberboard.
670. On the submission of responding exporters/producers from Indonesia regarding use of "rubberwood waste/residue from private plantations", the Authority notes that the exporter has not provided sufficient information in the form of consumption record that entirety of its purchase is from private plantations and entirety of its production is from rubberwood waste/residue. In this regard, it is noted that even if the procurement were from private parties, the series of measures taken by GOI is such that they amount to directing / entrusting private parties to provide logs/ wood at less than adequate remuneration.
671. With regards to contention made by responding exporters/producers from Indonesia regarding procurement of land under Program No. 11, it is noted that the Authority has already recorded in the finding above that the benefit received on procurement of land for plantation under Program No. 11 is already subsumed in program no 1 & 2.
672. With regard to the claim of non-adherence to the principle of natural justice, the Authority notes that due process has been followed and all the interested parties were given ample opportunities at every stage of the investigation to submit the requisite information and defend their rights and interests. The Authority notes that two oral hearings were held and two disclosure statements issued by the Designated Authority in the present investigation. The exporters were issued even another questionnaire after issuance of first disclosure statement

to provide additional relevant information and the same has been duly considered in the present determination. It is further noted that the information regarding addition of new schemes was available to interested parties from the stage of written submissions after the 1st oral hearing. However, none of the interested parties chose to respond to the allegation regarding availment of the said schemes. Interested parties got the opportunity to present their views on the same in the 2nd Oral hearing as well.

673. The Authority has relied upon the actual information of the responding producers/exporters to the extent necessary and disclosed the same in the disclosure statement. The Authority has clearly specified all the relevant information and basis in the disclosure statement and the interested parties had enough opportunity to comment on the same.
674. The interested parties also contended that additional questionnaires should have been provided to submit responses on the new schemes. The Authority, in this regard, notes that the original questionnaire issued to the interested parties itself specifically contained a detailed annexure with respect to 'other subsidy schemes' and it was also instructed that even if some of the programs are not listed by the applicant but are existing in the subject country, the responding party should respond fully to the questions in respect of them.
675. The Authority notes in this regard that the interested parties had obligation to bring on record, on their own, relevant information with regard to these schemes/programs. It is not appropriate on the part of the interested parties to withhold relevant information themselves by not commenting on the submissions made by the domestic industry, and then allege non-adherence of due process.
676. Nonetheless, the authority provided further opportunity to respond to each program even if some of them were not listed by the applicant and sent additional questionnaire with relevant Annexure as per the requests of interested parties to provide requisite information.
677. With regard to the submission by responding exporters/producers from Indonesia that they are using rubberwood waste/residue, the Authority notes that it has taken due cognizance of this fact and found it appropriate in such cases to consider the estimated price of the logs on the basis of the ratio of the prices of the waste/residue to the prices of fresh logs. . This was then compared with the benchmark adopted by the Authority, whereby the Authority found element of subsidy and hence the appropriate subsidy margin has been quantified. Wherever the exporters have used chip as a raw material, the Authority has used benchmark price of chip to have fair comparison.
678. With regards to contention of non-disclosure of calculation methodology, it is noted that the Authority has duly taken into consideration the type and form of wood utilized by a particular producer/exporter. The Authority notes that provision of wood at LTAR provides a benefit equal to the difference between the actual & benchmark price, whereby the actual cost of wood species and the consumption factor is adopted as provided by the responding exporters in their questionnaire response to quantify the subsidy margin.

679. With regard to the issue raised in respect of the country wise price underselling/injury margin, it is noted that the same is already provided in the findings above.
680. With regard to the allegation that the Authority has proposed to determine a highly inflated and skewed subsidy duties for the respondents on the basis of certain illogical, illegal, and misconceived premise, the Authority notes that the CVD margins are based on calculations and facts established during the investigations. The subsidy margins arrived at are in fact much lower than the claims made by the domestic industry.
681. With regard to submission of responding exporters/producers from Indonesia that export ban / restriction cannot be regarded as a subsidy, the Authority notes that the Appellate Body in United States – Countervailing Duty Investigation on Dynamic Random Access Memory Semiconductors (DRAMs) from Korea stated that if government has a more active and affirmative role than mere intervention to create incentive or possibility of financial contribution, it can result in entrustment or direction and consequently grant of countervailable subsidy. It is thus seen that WTO Panel's view in US-Measures Treating Export Restraints as Subsidies is narrow, while Appellate Body view is more relevant and appropriate in the facts and circumstances of the present case.
682. As regards countervailability of price paid for factory land, it is noted that the exporter as well as government of Indonesia have not contended either countervailability or existence of benefit. The interested parties were already made aware of the subsidy in the form of concessional price for the land. It is only a variant of land utilised by the exporter. While responding to questionnaire, the exporters have not provided relevant information. The domestic industry had raised this concern in their post hearing written submissions. The exporters have not disclosed relevant information appropriately in regard to availment of this program at any stage despite having been given several opportunities. The Authority is thus constrained to record these findings on the basis of facts available.
683. With regard to the contention that coal is not made available to PLN at less than market value, it is noted that Govt. of Indonesia has admitted supplying coal to PLN. Further, consideration of the price with benchmark shows that a benefit has occurred.
684. With regard to contention of reliance upon an arbitrary source to benchmark prices to compute subsidy margin, the Authority notes that none of the interested parties (barring domestic industry) provided any evidence that could be used as benchmark for the purpose of the present investigations. The interested parties limited themselves to mere arguments on absence of countervailability or benefit. In the absence of any benchmark information from the interested parties, the Authority relied upon the most appropriate benchmark for relevant inputs based on facts available. The Authority notes that as per the GlobalPetrolPrices.com website, it publishes the most wide-ranging, reliable and up to date information on retail energy prices around the world including motor fuel prices and electricity prices. For Electricity prices, GlobalPetrolPrices.com tracks the national average in about 150 countries. It collects data from the price offers of electricity/ power supplying companies/ organization and produce a national average that takes into account the market shares of those companies/ organizations and the relative population of regions within the country.

685. With regard to contention of the responding exporters of Thailand that the current timber royalty rate is 400 Baht per cubic meter, the Authority notes that a typographical error had crept in and the same has now been corrected. However, this does not, in any way, alters the fact that the intervention of the government in the forestry sector through regulation and price ceiling distorts the domestic market for timber allowing the producers of the subject goods in Thailand to purchase raw materials, i.e., wood at prices lower than international prices which has been dealt with by the Authority in findings above. .
686. With regard to contention of the responding producer/exporter from Thailand that wood has been procured at market rates, the Authority notes that it has duly considered the actual data/information provided by the interested parties in their response to additional questionnaire for computation of subsidy margins. The Authority notes that various measures taken by the government have distorted the Thai domestic market for logs to the benefit of the downstream industries that use logs. Hence, wood, which is the primary raw material in the fiberboard industry, is made available for procurement to the companies under investigation at rates below the market rate.
687. With regard to submission of responding exporters/producers from Thailand for electricity at LTAR, the Authority notes that there is contradiction in the submission made by the GOT and the responding exporters with regard to the supply of electricity at less than adequate remuneration. The Authority has based its examination as per facts presented by the interested parties. Furthermore, it is found that Provincial Electricity Authority ("PEA") is the sole supplier and distributor of power to all the users of electricity in key provinces in Thailand and the tariff determination process is inconsistent with market principles and distorts the domestic supply of electricity. The program provides a financial contribution in the form of electricity at less than adequate remuneration. .
688. With regards to the contention that Advance Fiber that utilised the benefit under Program No. 1., the Authority has duly rectified/corrected the same at relevant Para of these Findings.
689. With regard to the contention that substantial subsidy margins have been found for programs which were never availed by the companies, in particular, alleged benefits on inputs such as wood, land and electricity, it is noted that during the course of investigation, the Authority found that the inputs such as wood, land and electricity are being provided to the producers/exporters of the subject goods at less than adequate remuneration. Hence the same has been quantified by the Authority considering the appropriate benchmarks.
690. With respect to the contention of exporters/producers of Vietnam regarding land at less than adequate remuneration, the Authority notes that this program provides benefit equal to the difference between the market rate and the actual rate of land procured by the producer/exporters in Vietnam. To calculate the per-square-meter benefit, the Authority has compared the per-square-meter price to the benchmarks and multiplied the per-square meter benefits by the area of the factory land of particular exporter.
691. With regard to the contention that Vietnamese producers/exporters have purchased wood at market price, the Authority found that the measures adopted by the GOV achieved the desired effect to distort the domestic market of wood/timber/log and to depress the price to

low level to the advantage of the downstream industry. Hence, wood, which is the primary raw material in the fiberboard industry, is made available for procurement to the companies under investigation at rates below the market rate.

692. With regard to the contention that producers/exporters of Thailand have purchased wood at market price, the Authority notes that wood, which is the primary raw material in the fiberboard industry, is made available for procurement to the companies under investigation at rates below the market rate.
693. With respect to the contention of the Government of Thailand regarding inclusion of "Other Subsidy – Loans" within the scope of the investigation, the Authority notes that it is entirely within its rights to incorporate any subsidy scheme discovered during the course of investigation.
694. As regards arguments on injury it is noted that the Authority has examined the injury parameters objectively taking into account the facts and arguments in the submissions. All parameters of injury need not show deterioration. While some parameter may show deterioration, some may show improvement. The Designated Authority has considered all injury parameters and thereafter concluded whether the domestic industry has suffered injury or not. The overall position of the domestic industry has been evaluated, in light of all the relevant factors having a bearing on the situation of that industry.

Indian Industry's Interests and Other Issues

695. The Authority notes that anti-dumping duty has been recommended for the part of the product under consideration in the parallel anti-dumping investigation. Therefore, the Authority is required to ensure that (i) no article shall be subjected to both countervailing duty and anti-dumping duty to compensate for the same situation of dumping or export subsidization in accordance with Section 9B(1)(a) of the Customs Tariff Act and Article VI:5 of GATT 1994 & (ii) the antidumping duty and countervailing duty put-together should not exceed the injury margin because India follows a lesser duty rule, which provides that anti-dumping duty and/or countervailing duty will be equal to the injury margin if such injury margin is lesser than dumping margin and/or subsidy margin.
696. Therefore, to ensure compliance with both the aforementioned requirements, the Authority noted in the final findings of anti-dumping duty investigations against the same product that "the amount of anti-dumping duty to be imposed is equivalent to the difference between the quantum of anti-dumping duty and the countervailing duty payable, if any. If the anti-dumping duty is less than the countervailing duty payable, the differential amount would be in the negative and no anti-dumping duty shall be collected in such case".
697. Authority considered whether imposition of proposed CVD shall have adverse public interest. This determination is based on consideration of information on record and interests of various parties, including domestic industry, importers and consumers of the product.
698. The Authority notes that the purpose of imposition of countervailing duty, in general, is to eliminate injury caused to the domestic industry by the unfair trade practices of subsidization 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 countervailing duty would not

restrict imports from the subject country in any way, and, therefore, would not affect the availability of the products to the consumers.

699. It is recognized that the imposition of countervailing duty might affect the cost of the subject goods. However, fair competition in the Indian market will not be reduced by the imposition of the countervailing measures, particularly if the levy of the countervailing duty is restricted to an amount necessary to redress the injury caused to the domestic industry by the imports of subsidized subject goods. On the contrary, imposition of countervailing measures would remove the unfair advantages gained by subsidization and create level playing field.

Conclusion and Recommendation

700. Having regard to the contentions raised, information provided and submissions made by the interested parties and facts available before the Authority as recorded in the above findings, the Authority concludes that:

- a) Greenply Industries Limited/ Greenpanel Industries Limited, Century Plyboards (India) Ltd. and Rushil Decor Limited constitute domestic industry within the meaning of Rules 2(b) and satisfy the criteria of standing in terms of Rules 6(3) of the CVD Rules
- b) The subject goods produced by the domestic industry are like article to the product under consideration imported from subject countries within the scope and meaning of Rule 2(d) of anti-subsidy Rules
- c) the Applicants have filed the present investigation for imposition of anti-subsidy duty on Fibreboard. The Applicants have never requested imposition of anti-subsidy duty on Plyboard and the information of the same is not on records. Therefore, the same is outside the scope of the present investigation.
- d) Considering the level of subsidies provided by the Government in subject countries, the subsidy margins of each of the subject countries is above de minimus and significant.
- e) The Domestic Industry has suffered material injury. The Authority notes that the imports have increased significantly in absolute terms as well as in relation to production and consumption in India. The imports are undercutting the prices of the domestic industry and have had a suppressing and depressing effect on the prices of the domestic industry. The price underselling/injury margin of each of the responding producers from subject countries is also positive. The capacity utilization of the domestic industry has declined. It is seen that the domestic industry is suffering from underutilized capacities, despite increase in demand. Further, the profits, cash profits, PBIT and return on capital employed of the domestic industry has declined significantly over the injury period. Inventories with the domestic industry has increase significantly over the injury period
- f) The domestic industry has not suffered injury in the POI due to other factors. The domestic industry has suffered injury due to subsidization of the subject goods.
- g) none of the users have provided any information on impact of CVD duty. It is, thus, noted that the interested parties have not established impact of CVD on the user industry with verifiable information.

701. The Authority notes that the investigation was initiated and notified to all interested parties including Government of subject countries and adequate opportunity was given to provide

information/evidence on the aspect of subsidization, injury and causal links in favour or against thereof. Having initiated and conducted the investigation into subsidization, injury and causal links in terms of the Rules laid down and having established positive subsidy margin as well as material injury to the domestic industry caused by such subsidized imports, the Authority is of the view that imposition of definitive countervailing duty is required to offset subsidization and injury. Therefore, the Authority considers it necessary to recommend imposition of definitive countervailing duty on the imports of the subject goods from the subject country in the form and manner described hereunder.

702. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of definitive countervailing duty equal to the lesser of margin of subsidy and margin of injury for a period of five (5) years, from the date of notification to be issued in this regard by the Central Government, so as to remove the injury to the domestic industry. Accordingly, definitive countervailing duty of an amount equivalent to the difference between the quantum of countervailing duty calculated at the rate mentioned in column (7) of the said Table, and anti-dumping duty payable, if any, is recommended to be imposed from the date of notification to be issued in this regard by the Central Government on all imports of the subject goods from the subject countries.

DUTY TABLE

S.No.	Heading	Description	Country of origin	Country of export	Producer	Duty amount as a % of CIF Value
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	4411	Fibreboard*	Thailand	Any country including Thailand	M/s Vanachai Group Public Company Ltd. and M/s Vanachai Panel Industries Co. Ltd.	18.54
2	4411	Fibreboard*	Thailand	Any country including Thailand	M/s Panel Plus Co. Ltd. and M/s Panel Plus MDF Co. Ltd.	11.47
3	4411	Fibreboard*	Thailand	Any country including Thailand	M/s Metro MDF Co., Ltd. and M/s Advance Fiber Co., Ltd.	8.29
4	4411	Fibreboard*	Thailand	Any country including Thailand	M/s Agro Fiber Co., Ltd. and M/s Green Fiber Co., Ltd.	NIL
5	4411	Fibreboard*	Thailand	Any country including Thailand	M/s Wisewoods Co., Ltd.	13.90
6	4411	Fibreboard*	Thailand	Any country including Thailand	Any producer other than at serial number 1 to 5	27.52

7	4411	Fibreboard*	Any country other than Thailand, Malaysia, Vietnam, Indonesia & Sri Lanka	Thailand	Any producer	27.52
8	4411	Fibreboard*	Malaysia	Any country including Malaysia	M/s Segamat Panel Boards SDN BHD	10.52
9	4411	Fibreboard*	Malaysia	Any country including Malaysia	M/s Robin Resources (Malaysia) SDN BHD	15.95
10	4411	Fibreboard*	Malaysia	Any country including Malaysia	Any producer other than at serial number 8 & 9	18.08
11	4411	Fibreboard*	Any country other than Thailand, Malaysia, Vietnam, Indonesia & Sri Lanka	Malaysia	Any producer	18.08
12	4411	Fibreboard*	Vietnam	Any country including Vietnam	M/s MDF VRG Quang Tri Wood Joint Stock Company	14.46
13	4411	Fibreboard*	Vietnam	Any country including Vietnam	M/s Kim Tin MDF Joint Stock Company and M/s FSC Vietnam Corporation	12.36
14	4411	Fibreboard*	Vietnam	Any country including Vietnam	Any producer other than at serial number 12 & 13	19.13
15	4411	Fibreboard*	Any country other than Thailand, Malaysia, Vietnam, Indonesia & Sri Lanka	Vietnam	Any producer	19.13
16	4411	Fibreboard*	Indonesia	Any country including Indonesia	M/s PT. Sumatera Prima Fibreboard	14.77
17	4411	Fibreboard*	Indonesia	Any country including Indonesia	M/s PT. Mukti Panel Industri	13.69

18	4411	Fibreboard*	Indonesia	Any country including Indonesia	Any producer other than at serial number 16 & 17	15.78
19	4411	Fibreboard*	Any country other than Thailand, Malaysia, Vietnam, Indonesia & Sri Lanka	Indonesia	Any producer	15.78
20	4411	Fibreboard*	Sri Lanka	Any country including Sri Lanka	Any Producer	12.37
21	4411	Fibreboard*	Any country other than Thailand, Malaysia, Vietnam, Indonesia & Sri Lanka	Sri Lanka	Any Producer	12.37

* The product under consideration accordingly is, "fibre board of wood or other ligneous materials, whether or not bonded with resins or other organic substances", Fibreboards is a type of engineered wood product that is made out of wood fibers. Types of fibreboard include medium-density fiberboard (MDF) and high-density fiberboard (HDF). Following are excluded from the scope of product under consideration

- a) Flooring boards
- b) Sunmica
- c) Insulation board
- d) Coir boards
- e) Jute fibre board
- f) Moulded Door Skin

J. FURTHER PROCEDURE

703. An appeal against the order of the Central Government that may arise out of this recommendation shall lie before the Customs, Excise and Service tax Appellate Tribunal in accordance with the relevant provisions of the Act.

(Anant Swarup)

Joint Secretary & Designated Authority

