

**GOVERNMENT OF INDIA
MINISTRY OF COMMERCE & INDUSTRY
DEPARTMENT OF COMMERCE
(DIRECTORATE GENERAL OF ANTI DUMPING &
ALLIED DUTIES)**

NOTIFICATION

FINAL FINDINGS

New Delhi the 24th December 2003.

Subject: Anti-dumping investigation concerning import of Green Veneer Tape originating in or exported from Chinese Taipei - Final Findings.

No. 14/50/2002-DGAD - Having regard to the Customs Tariff Act, 1975 as amended in 1995 and the Customs Tariff (Identification, Assessment and Collection of Anti Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, thereof;

A. PROCEDURE

1. The procedure described below has been followed with regard to the investigation:
 - i. The Designated Authority (hereinafter referred to as Authority), under the above Rules, received a petition filed by M/s Waterproof Corporation Pvt. Ltd., on behalf of the domestic industry, alleging dumping of Green Veneer Tape originating in or exported from Chinese Taipei (hereinafter referred to as subject country).
 - ii. The Authority issued a public notice dated 27th December 2002 published in the Gazette of India, Extraordinary, initiating Anti-Dumping investigations concerning imports of the subject goods classified under custom Code 48.11, 4811.4900, 48.23, and 4823.1900 Schedule I of the Customs Tariff Act, 1975 originating in or exported from Chinese Taipei.
 - iii. The Authority on the basis of sufficient evidence submitted by the petitioner decided to initiate the investigation against imports of subject goods from Chinese Taipei.
 - iv. The Authority conducted on-the-spot verification of the domestic industry to the extent considered necessary;

- v. The Designated Authority notified preliminary findings vide Notification No. 14/50/2002-DGAD dated the 23rd May, 2003 with regard to Anti Dumping investigations concerning imports of Green Veneer Tape originating in or exported from Chinese Taipei, and requested the interested parties to make their views known in writing within forty days from the date of its publication;
- vi. The Authority forwarded a copy of the Preliminary Findings to known interested parties, who were requested to furnish their views, if any, on the Preliminary Findings within forty days of the date of its publication.
- vii. The Authority also forwarded copy of the Preliminary Findings to the Embassies/High Commissions/Trade Organisations of subject country in New Delhi with a request to furnish their views on the Preliminary Findings;
- viii. The Authority held a public hearing on 5th August 2003 to hear the interested parties orally, which was attended by representatives of the domestic industry, importers and users. The parties attending the public hearing were requested to file written submissions of views expressed orally. The written submissions thus received from interested parties have been considered by Designated Authority in these finding;
- ix. The cost of production of the domestic industry was also analysed to work out optimum cost of production and cost to make and sell the subject goods in India on the basis of Generally Accepted Accounting Principles (GAAP) based on the information furnished by petitioner so as to ascertain if anti dumping duty lower than dumping margin would be sufficient to remove injury to domestic industry. The cost of production data of the petitioner company was considered and examined appropriately.
- x. The foregoing submissions made by the interested parties, to the extent these are relevant as per Rules and have a bearing upon the case, have been examined, considered and dealt with at appropriate places in these findings.
- xi. The Authority kept available non-confidential version of the evidence presented by various interested parties in the form of a public file maintained by the Authority and kept open for inspection by the interested parties as per Rule 6(7);
- xii. In accordance with Rule 16 of the Rules supra, the essential facts/basis considered for these findings were disclosed to known interested parties and comments received on the same have also been duly considered in these findings;
- xiii. Investigation was carried out for the period starting from 1st April 2001 to 31st March 2002;
- xiv. **** in the Notification represents information furnished by interested parties on confidential basis and so considered by Authority under the Rules.

B. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

VIEWS OF DOMESTIC INDUSTRY

2. The only producer of GVT in India is M/s. Waterproof Corporation Pvt. Ltd. It has more than adequate capacity to meet the current demand in the country.
3. GVT is used for the manufacture of veneer. It is used for binding the wet sheets of extremely fine wood and minimize the wastage. The tape is manufactured in extremely large rolls, which are then slit into the desired lengths and breadths. The tape is used as production aid in the manufacture of veneer sheets from logs. It is used as a measure for edge banding while peeling the logs.
4. This product is also imported in jumbo rolls, which is being dumped in the Indian market by the exporters from Taiwan. It is available in size 1.08m X 3000 meters reel. These reels are slit to smaller sizes (widths and length) by the importers and sold to consumers.
5. The exporters claims that there are primarily two differences first, the material coming in to India is B Grade, as opposed to the A Grade sold in all other markets, including in Taiwan. Second, the material sold in India is in "economy" size rolls (which are full width jumbo rolls not cut to final size). The exporter claims that the material concerning to India is of "B" grade, while the importers claim that the imported tape is of better quality.
6. The Domestic industry manufactures tape from imported paper and imported acrylamide, which is the essential ingredient of the glue. Both amount for roughly 75% of the cost of production. If such vital and large inputs are imported, there is no way that Indian product is substandard.
7. It is a matter of fact that pursuant to an order of the Hon'ble Supreme Court, log felling is at a virtual stand still in India and only imported logs are used for manufacturing veneer. Thus, Indian wood is no different from the wood used globally, thus the tape required cannot differ.
8. The petitioner submits that there is no known gradation of "A" and "B" in this product in the industry. The exporter claims that they do not sell grade "B" in any other market except India. Additionally it is submitted in our earlier communication dated April 16, 2003 from an extract from the website of the Exporter, it is clear that

there is no "B" Quality tape being offered by them in their product range. It is clear and apparent that defence has been specially created for these proceedings.

9. To sum up, it is factually correct that there are no different grades of GVT known or produced anywhere. As such, it should be clear that the nomenclature of Grade "B" is being used merely to mask dumping activity. The exporter has also not come forward with any international specifications in recognition of Grade "B" material.

10. The importers additionally claim that their product is not like article as it is imported in jumbo rolls. The fact is that all they do is slit the rolls into tape and claim that the product differs. This clearly cannot be the determining standard for the product under consideration and like article.

11. Elsewhere in their submissions the importers claim Domestic Industry status as they are in the business of "manufacturing" the Product Under Consideration since they slit the tape to size. Thus they opportunistically take contrary stance i.e. that their product is not "like article" and that they qualify as Domestic industry.

12. The importer is not well versed and confused with the proceedings conducted under anti dumping for the reasons that an industry in general means a group of companies and not a single company. It is a clear finding made by the Hon'ble Designated Authority in its preliminary finding that the petitioner being the only producer of the product under consideration has complied with the Rule 5(3) of the anti dumping rules.

13. In the context of initiations, universally (including in India) it is recognized that even one industry, which meets the prescribed criteria, can on its own make an application for initiation. Universally (and in India), there have been numerous proceedings initiated on the application of a single industry which satisfies the prescribed criteria.

VIEWS OF IMPORTER - M/s. KIRAN TRADING CO.

14. An industry in general term specifies to be a group of companies dealing in a particular line of product or products. But, in the case of Green Veneer Tape, anti dumping duty has been proposed to be imposed on petition filed by a single domestic industry which also constitutes 100% of the domestic industry.

15. As specified by the petitioner on the hearing that 75% of its raw materials are imported i.e., paper and glue and process done in India (Glue & Paper mixed and smaller cut rolls prepared), while we import Green Veneer Tape in complete form i.e., in Jumbo Rolls form and then slit in India and transform into smaller cut rolls to be

used in plywood industry. The whole of raw materials is imported by petitioner for Green Veneer Tape then how the petitioner could be termed as Domestic Industry and propose for anti dumping duty.

16. The margin of anti dumping duty would insignificantly raise the cost of Green Veneer Tape to a level much above the one to be digested by its users. This would raise the cost of production for users leading to the rise in the cost of end product affecting the general masses. The quantum of anti dumping duty proposed to be imposed would not only result in higher prices for consumers but also harm the domestic plywood industry and also would restrict the imports of Green Veneer Tape completely from Chinese Taipei.

VIEWS OF EXPORTERS

17. Grade 'A' Green Veneer tape sticks in all types of veneer produced from logs of any region whereas Grade 'B' is suitable only for veneer produced from logs of South Asian Region i.e, countries like India, Burma, Cambodia, Vietnam etc.

18. The paper quality in Grade 'A' is much better than 'B' Grade paper whereas paper in Grade 'B' is lower in quality as compared to Grade 'A'. Grade 'A' is ready to use cut roll as desired by importers whereas Grade 'B' is not cut rull as cutting needs high labour, which is very expensive in Taiwan

19. At the time of cutting Grade 'A' Green Veneer Tape, wastage is very low because high amount of heat can be given as the good quality paper will not burn while drying, which makes cutting easy and less wastage whereas wastage is very high at the time of cutting Grade 'B' Green Veneer Tape due to thin patches of glue, which are not dry properly as high heat cannot be given to dry up the glue because of lower quality paper. The undried patches glue many times stick on the upper layer of GVT at the time of winding. During unwinding of rolls for slitting, small patches of upper layer & lower layer stick with each other which caused the paper to tear off, thus resulting high wastage.

20. Grade 'B' Green Veneer Tape is suitable for Indian woods. India peels 0.38mm width of face Veneer which is very high labour intensive and not done any where in other countries (general is 0.65mm to 0.75mm in other countries). This means that the type of tapes supplied to India would have to be 'B' grade tape as the tape has to withstand the tear of a very low/thin width of woods in comparison to other countries. Thus the quality of 'B' grade is supplied which is best suitable to Indian Veneer. The uncut grade 'B' is supplied to India because the average veneer production per industry is very low as compared to other countries. Our 50 veneer production unit will be equivalent to one whole Indian factory production. Therefore the demand for

each unit in India is very low and each factory needs different sizes in small quantum, which is impossible for us to match each factory specific demand. There is a demand in Indian market and our 'B' grade quality is still better than the quality of Indian domestic Manufacturers.

EXAMINATION OF THE AUTHORITY

21. The product under consideration is Green Veneer Tape. It is also known as gummed paper reels mainly imported in jumbo rolls. It is used as a production aid in the manufacture of veneer sheets from logs and also used for edge bending while peeling the logs. This item is specifically used as an edge protection-bonding medium, which in turn reduces the wastage of veneer during the time of peeling, drying, handling and processing to make it into plywood. It has been imported under Chapter 48 of Customs Tariff Act. The classification sub-headings 48.11, 4811.4900, 48.23, and 4823.1900 suggest description as Green Veneer Tape. The classification is, however indicative only and is in no way binding on the scope of the present investigation.

22. The importers/exporters have described the product as coated paper of 'B' Grade, which have been exported to India. They have further stated that the manufacturers in India convert 'B' Grade coated paper into Green Veneer Tape 'B' Grade after further processing of slitting, cutting, packaging etc. The exporter has claimed that Grade 'B' Coated papers are different from Grade 'A' Green Veneer Tapes, which are not sold in the domestic market as well as exported to third countries. The main difference in these two grades is the quality of raw materials and as such the raw material cost for Grade 'A' is much higher than the Grade 'B' due to the variation in cost of glue and paper. On account of the higher cost of paper and glue, additional labour intensive processes of cutting, sorting and finishing, higher packaging costs and higher marketing costs, the total cost of 'A' Grade tapes is much higher than that of 'B' Grade coated paper exported to India. The petitioner has not furnished any information/evidence regarding the Grade 'B' Veneer Tape, rather they manufacture only one type of Green Veneer Tapes which is used as the production aid in manufacture of Veneer sheets from wooden logs and also used for edge binding while peeling the logs.

23. The petitioner has argued that the jumbo rolls imported from Taiwan are not different from the product Green Veneer Tapes manufactured and sold by them. The importers are bringing the finished products in jumbo rolls of about 1.08 meters width and 3000 meters length and thereafter cut them into sizes as per the requirement of the customers. The core manufacturing area is the production of jumbo rolls. This virtually entails the whole investment in production from sizing and cutting of paper into required rolls, making of glue as per requirement, coating of glue on the base

paper, drying of glue on base paper and finally cutting, slitting and customer bound packaging. The importers do cut the imported jumbo rolls into sizes as per customer's requirement whereas the petitioner also manufactures the jumbo roll and then cuts and sales the same as per customer requirement, having the similar manufacturing process and technology.

24. The petitioner stressed that there is no gradation of Green Veneer Tape and they have failed to produce evidence of such a Grade 'B' in any other part of the World. The petitioner further argued that the exporter would not be able to cover the cost of base paper in the international market at the price the subject goods are exported into India. The Authority examined the submissions of the exporter and notes that the exporter themselves has clarified that the Grade 'B' variety of Green Veneer Tapes are only exported to India, it is neither sold in their domestic market nor exported to third countries.

25. As regards coated paper Grade 'B', the Authority has considered the view expressed by the petitioner, exporters and importers/users. Rule 2 (d) of Anti Dumping Rules defines the like article as,

"like article means an article which is identical or like in all respect to the article under investigation for being dumped in India or in the absence of such an article, another article which although not alike in all respects has characteristics closely resembling those of the articles under investigation."

26) As regards the arguments of exporter and importer that the imported product is not identical or alike in all respect to the article under investigation, the Authority notes that the petitioner has stated *inter-aila* that there is a great amount of substitutability between the two grades of Green Veneer Tapes and there is a close resemblance in terms of Characteristics of domestically produced Green Veneer Tape and imported Grade 'B' coated paper which is used by the plywood industries. On the basis of evidence furnished both by the petitioner and importer/exporter, the Authority is constrained to establish that Green Veneer Tape produced by the domestic industry is not identical or alike in all respects to Grade 'B' coated paper, the product under consideration.

27. From the documentary evidence provided by the domestic industry regarding the sales of Green Veneer Tape to the user industry, which have been verified during the course of verification of costing and sales, it was established from their sales and excise register that plywood industry is using the domestically manufactured Green Veneer Tapes which in turn also use imported Green Veneer Tapes as claimed by them. The user industry has also confirmed in their submissions that imported Green Veneer Tapes are used in the plywood industry for an edge protection-bonding

medium, which in turn reduces the wastage of veneer during the time of peeling, drying, handling and processing to make it into plywood. The Authority notes that the one form has been imported and consumed whereas the other form, which is manufactured by domestic industry, is being consumed establish technical and commercial substitution of the two grades.

28. Therefore there is no significant difference in Green Veneer Tape produced by the Indian industry and Green Veneer Tape exported from Chinese Taipei. Green Veneer Tape produced by the Indian industry and imported from Chinese Taipei, are comparable in terms of characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers have used the two interchangeably. Green Veneer Tape produced by the petitioner and imported from Chinese Taipei should be treated as like articles in accordance with the anti dumping Rules. The petitioner submits that the technology adopted by the Indian industry is comparable with the technology adopted by the manufacturers of Green Veneer Tape from Chinese Taipei.

29. The Authority in view of the submissions made by the petitioner and other interested parties thereby keeping in view of substitutability and interchangeability by the same consumers of the subject goods, exported from subject country and those produced by the domestic industry, considers the subject goods exported and domestically produced subject goods as like article as per Rule 2 (d) Supra.

30. Therefore, the Authority notes that the investigation covers all grades of Green Veneer Tapes as product under consideration.

C. DOMESTIC INDUSTRY

VIEWS OF DOMESTIC INDUSTRY

31. The importer has raised an issue as to whether a single company be considered as a domestic industry and alleges that the petitioner does not have the standing to file the petition

32. It is submitted as for the actual proceeding, the law requires that the petition must be filed by "domestic industry". As a bar, a manufacturer having above 25% of the domestic production is qualified to bring the petition, unless another manufacturer with a larger percentage of the domestic production opposes him. Clearly the petitioner can bring the petition on its own, as there is no other company which

manufacturers the product under consideration and also more than 25% of the domestic production.

33. The claims of monopoly practice made by the importer are also baseless. A monopoly inherently involves price distorting practices. On the contrary, these proceedings are to restore fair trade. The petitioner has no ability to manipulate prices at all and has in fact remained at the receiving end of the unfair trade practices adopted by the exporters from Taiwan.

34. As per Rule 2(b) of the Anti Dumping Rules, "domestic industry means the domestic producers as a whole engaged in the manufacture of the like article and any activity connected therewith or those whose collective output of the said article constitutes a major proportion of the total domestic production of that article except when such producers are related to the exporters or importers of the alleged dumped article or are themselves importers thereof in which case such producers shall be deemed not to form part of domestic industry." Further Rule 5(3) of the Anti Dumping Rules states that Designated Authority shall not initiate any investigations pursuant to an application made under sub rule (1) unless it determines on the basis of an examination of the degree of support for, or opposition to the application expressed by domestic producers of the like product that the application has been made by or on behalf of the Domestic Industry provided that no investigation shall be initiated if domestic producers expressly supporting the application account for less than 25% of the total production of the like article by the Domestic Industry .

VIEWS OF TAIPEI ECONOMIC AND CULTURAL CENTRE

35. The petitioner is comprised of only one company M/s. Waterproof Corporation Pvt. Ltd., Mumbai, representing as Domestic Industry. How can a single company be considered as a domestic industry?

36. The petitioner is trying to monopolize the whole Indian market. According to our information, the petitioner came into existence in the market not for a long time and their market share is about 25 to 30% rest are shared by importers. Does the monopoly company has the right to file a petition on behalf of all domestic producer and request the government to stop entering the said product into the market? We feel that M/s. Waterproof Corporation Pvt. Ltd., is just trying to take advantage of anti dumping measures with the help of government because they can not compete with other producers in the market. This investigation is one company against all other producers and exporters.

37. According to preliminary findings, demand in the market increases during the period of investigation, as a result there is an increase in their production. This report

shows that they do not suffer any type of injury. They just want to have a huge profit margin and 100% market share. How can one monopoly's profit against end-users industry i.e., plywood industry.

EXAMINATION BY THE AUTHORITY

38. The petition has been filed by M/s. Waterproof Corporation Pvt.. Ltd., on behalf of the domestic industry. The petitioner claims that the petitioner company represents 100% of the production of the subject goods under consideration. As per the evidence available petitioner has the standing to file the case for anti dumping investigation on behalf of domestic industry as per rule 5 of Anti Dumping Rules.

39. The Authority also notes that the petitioner constitutes more than 50% of the total domestic production and therefore have the standing to file the petition on behalf of the domestic industry as per Rule 5 (3) (a) and (b) of the Anti-Dumping Rules and also represent Domestic Industry in terms of Rule 2(b)

D. NORMAL VALUE,EXPORT PRICE AND DUMPING MARGIN:

VIEWS OF TAIPEI ECONOMIC AND CULTURAL CENTRE

40. The importers are not satisfied with the quality provided by M/s. Waterproof Corporation Pvt. Ltd., they are more satisfied with the quality exported from Taiwan regardless of any grades than the best quality from the said Indian company. No end-users wants to compromise on quality, therefore they have no other choice, but to import from the subject country, which can provide a satisfactory quality to meet end-user's demand.

41. The price can be differing from one company to another depending on the production cost. It is unfair to judge the price of the subject goods on the basis of the Indian production cost, as it is different from Taiwan's production system. Owing to effective management & mass production, the cost of production in Taiwan is cheaper than in India, definitely price will be lower in Taiwan. The petitioner pointed out in the hearing that the said Taiwan Company had given their price in the Internet that is lower than their cost of production, if that is the case, Taiwan has a system of clean inventory sale before the product expiry date, which has nothing to do with dumping goods. Normally Internet published price, not the invoice pricing cannot be used as a base to judge the precise pricing.

VIEWS OF DOMESTIC INDUSTRY

42. In any event, the normal value as constructed for Taiwan is based on internationally available prices for raw materials. Indian costs have only been used for aspects which can only be obtained directly by the Hon'ble Designated Authority. In view of this and based on Rule 6(8) which provides that:

"in a case where an interested party refuses access to, or otherwise does not provide necessary information within a reasonable period, or significantly impedes the investigation, the designated authority may record its findings on the basis of the facts available to it and make such recommendations to the Central Government as it deems fit under such circumstances".

43. It is submitted that the Hon'ble Designated Authority should confirm the preliminary duties without any delay.

44. With particular reference to the quantum of the anti dumping duty it must be clarified that the Hon'ble Designated Authority in its wisdom has deemed it appropriate only to impose anti dumping duty to the extent of the injury margin.

45. The cost of the tape in the resultant plywood is less than 1%. Inflating the cost per roll is mere sensationalism and has no basis in this proceeding.

46. In any event, the purpose of these proceedings is to restore free trade and not cast any burden on the exporter and importers. There is an unequivocal process by which the exporter can discharge any duty liability, but has opted not to do so on the facts of this case.

47. Levying a residual duty is as per the practice of this Hon'ble Designated Authority and the law. There is nothing unfair as is being alleged by the importer.

48. The Authority, while finalizing the final finding should enhance the duty to the dumping margin as calculated by the petitioners. Since the Exporters have not furnished any credible evidence of non dumping, it is, therefore, requested that the Hon'ble Designated Authority should finalize the duty on the basis of the calculation arrived by the petitioners on the basis of the best information available route.

EXAMINATION OF THE AUTHORITY

Under Section 9A(1)(c), normal value in relation to an article means:-

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

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

- a. Comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country as determined in accordance with the rules made under sub-section (6); or
- b. The cost of production of the same article in the country of origin along with reasonable addition for administrative, selling and general costs and for profits, as determined in accordance with the rules made under sub-section (6);

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

Normal Value – Chinese Taipei

51. Subsequent to the preliminary findings the exporter did not respond to the deficiencies pointed out in the preliminary finding. They also neither participated in the public hearing nor filed their written submissions to that effect for considering their cost of production for the normal value for determination of dumping margin. They also did not clarify the difference in the cost of labour for two different grades and the depreciation cost for different grades and did not substantiate with the documentary evidence. The trading and profit and loss accounts, balance sheets for the current year and previous two financial years showing the determination of gross profit, details of selling and administrative and other costs and net profits are not submitted.

52. In Appendix 7, in addition to detailed information for the Grade 'B' coated paper for the POI along with the preceding two years is not furnished. As the company is manufacturing other products in addition to the products being investigated, detail explanation with basis of allocation of cost like utilities and all elements of overheads are not furnished.

53. In view of the non-submission of the required documents and non cooperation, the Authority decided to construct the normal value for all exporters of Chinese Taipei on the basis of facts available as per Rule 6(8) Supra.

54. In view of the inadequate response filed by the exporter, the Authority has decided not to take into account information furnished by the exporter and relied on the facts available as per Rule 6 (8) Supra.

55. The ex-factory normal value is referenced as ****US\$/Sq.mt. for the final findings.

Export Price – Chinese Taipei

56. The Authority has considered the information regarding the export price furnished by the exporter in Appendix 2. The import statistics of the DGCI&S Kolkata has also been compared with the exporters' submission and it was found that the export price of the exporter corresponds to the DGCI&S. The Authority has also considered the adjustments as claimed by the exporter on account of packing, overseas freight, overseas insurance, and shipping charges which have been allowed. The Authority has accepted these adjustments for the purpose of calculating the net export price for all the exporters from Chinese Taipei to arrive at ex-factory level from Chinese Taipei.

57. The ex-factory export price is referenced as ****US\$/Sq.mt. for the final findings.

DUMPING-Comparison of Normal Value & Export Price

The rules relating to comparison provides as follows:

58. "While arriving at margin of dumping, the Designated Authority shall make a fair comparison between the export price and the normal value. The comparison shall be made at the same level of trade, normally at ex-works level, and in respect of sales made at as nearly possible the same time. Due allowance shall be made in each case, on its merits, for differences which affect price comparability, including differences in conditions and terms of sale, taxation, levels of trade, quantities, physical characteristics, and any other differences which are demonstrated to affect price comparability."

59. The Authority has followed the consistent policy of adopting the principles governing the determination of Normal Value, Export Price and Margin of Dumping as laid down in Annexure I of the Anti Dumping Rules. Based on the Normal values and Export prices as indicated above the Authority assessed the Dumping Margins in case of all exporters/Producers from the subject countries as given in the table below:-

The dumping margin for exporter/producers comes as under:

Sl. No.	Country / Exporter/Producer	Normal Value (\$/MT)	Ex-Factory Export price (\$/MT)	Dumping Margin as % of EP
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3	Chinese Taipei All exporters/producers	****	****	135%
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The above Dumping Margins are above the de-minimus limits.

E. INJURY AND CAUSAL LINK:

VIEWS OF TAIPEI ECONOMIC & CULTURAL CENTRE

60. According to the preliminary findings, the provisional duty impose was Rs. 7.46/Sq. Mtr. One roll veneer tape is usually around 3000 meters, that means anti dumping tax in one roll would be Rs. 22, 380 plus other existing tax, therefore the over all tax price of one roll would be more than Rs. 30, 000. How would any one buy the goods in such a high price? In such a situation there will not be any import, ultimately the end user will suffer, leaving them no choice but to buy from the local producer with which they have to compromise with the bad quality, and finally affect another industry i.e., plywood industry.

61. According to Designated Authority and petitioner, two Taiwan companies are involved in this investigation but in the preliminary findings, provisional duty has been imposed to all exporters and manufacturers from Taiwan. It is very unfair to impose duty to all other potential exporters who have never exported the goods to India. It is just an excuse to block all Taiwan products into Indian market, which is very unfair, and discrimination of Taiwan product. This practice violets the principle of free trade that India holds.

VIEWS OF DOMESTIC INDUSTRY:

62. It is settled legal position that injury could be found on any of one or more of the indices specified in Annexure II to the Rules.

63. While an examination of several specified indices may be made, the specific provisions as to injury as also the settled position in law indicate that injury may be found from any one indice even though some of the other indice may not indicate a position adverse to the petitioners.

64. In the present case, there are clearly and unchallenged findings on injury verified by the Hon'ble Designated Authority which are listed as under and forms part of the preliminary findings:

65. Market share has decreased from 32.08% to 27.74% between 2000-2001 and POI. Market share of dumped imports has increased from 67.92% to 72.26% in the same

period. Dumped imports have displaced the demand of the domestic industry and at the same time domestic industry had to compete with low priced imports of GVT.

66. Quantum of imports has significantly increased from 12.16% (1448280 sq. mt) in 2000-01 to 203.13% (2941920 sq. mt.) in POI.

67. There is a increase of production of domestic industry in quantitative terms, but 63.26% of production capacity remained unutilized during POI.

68. Domestic industry is not able to realise a fair price or reasonable rate of return. Sales price has decreased during POI as compared to previous financial year.

69. There is a decrease in both cost of production and selling price, with selling price higher than cost of production in order to retain market share. It has not been able to earn any return on investments. Therefore, domestic industry has suffered material injury.

70. Landed value of dumped imports significantly lower than net sales realization of WACO. Difference between Non Injurious Price and Landed Value of dumped imports indicates a significant level of incidence of price undercutting, which has a depressing effect on prices of domestic industry.

71. In the present case, there is clearly a very high margin of dumping; the exporters who have caused material injury by their dumping have chosen not to cooperate. In these facts, any attempt to dilute or hijack the imposition of duty based on the so called interests of domestic actual users would render the entire act and rules nugatory and otiose.

Views of Importer - M/s. Binicom Products Pvt. Ltd., Kolkata

72. The domestic manufacturers are not competent enough to meet the total demand of the veneer industry in India.

73. If import is banned or taxed abnormally our industry will suffer drastically and the consumers like us who are very small will be affected too much.

74. Any imposition of extra duty on imported material is acceptable provided it is reasonable and does not hamper the running business of Indian industry who are buying a very costly timber logs from abroad and the purpose of the tape is only to bind the edges of the veneers to make it suitable.

75. If there is no competition it is obvious the only industry in India will detect their prices in their own way and ultimate sufferer will be Indian industry as a whole.

76. This connection will prove from their earlier product i.e., Dry Gum Tape when they had monopoly and thereafter many Indian manufacturers have come in the market with their product and forced the earlier industry to compete with them and the consumers are getting at reasonable price. As such until and unless few other manufacturers come for this contended material.

EXAMINATION OF THE AUTHORITY:

77. Under Rule 11 supra, Annexure-II, when a finding of injury is arrived at, such finding shall involve determination of the injury to the domestic industry, ".....taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles...." In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.

78. For the examination of the impact of the dumped imports on the domestic industry in India, we may consider such indices having a bearing on the state of the industry as production, capacity utilisation, sales quantum, stock, profitability, net sales realisation, the magnitude and margin of dumping, etc. in accordance with Annexure II(iv) of the rules supra.

79. The Authority examined the following economic parameters in the case of domestic producer,

Changes in Market Share held by the Indian Producers.

80. The table below shows that the market share of domestic industry in comparison to the total demand in the country has decreased from 32.08% in 2000-2001 to 27.74% during the POI.

Year	Domestic Sales (Sq. M)	Total Demand (Sq. M)	% share
1999-00	****	****	23.71
2000-01	****	****	32.08%
2001-02	****	****	27.72%

Volume and market share of dumped imports

81. Regarding the quantum of imports, the Authority has considered the statistics of imports of subject goods published by the Director General of Commercial Intelligence and statistics (DGCI&S), Kolkata. Therefore the Authority has relied upon the DGCI&S data for analysing the import trend from the subject country and injury caused to the domestic industry on this account.

82. It is seen from the following table that the imports from the subject country have increased substantially from -12.16% in 2000-2001 to 203.13% during the POI. It is evident that during the POI (April 2001 – March 2002) 2941920 Sq. Mt. of Green Veneer Tape were exported by Chinese Taipei compared to 1448280 Sq.Mt during 2000-2001. The imports of Green Veneer Tape have increased significantly in absolute terms also. The Authority, therefore, notes that there is a significant increase in imports of Green Veneer Tape from the subject country.

Year	Imports from Subject Country (Sq. M)	% Change
1999-2000	1648800	
2000-2001	1448280	-12.16%
2001-2002	2941920	203.13%

Market Share & Capacity Utilization

83. It may be seen that the production of the domestic industry went up in quantitative terms during the POI over the preceding finance year but it is observed from the following table that despite increase in production, there has been more than 63% of production capacity remained unutilised during the POI. The production has increased during the POI due to the increase in demand. The domestic sale is showing an increasing trend due to the increase in demand in 2001-2002 compared to 2000-2001, but the industry had to sell their product at unremunerative price to compete with the dumped import.

Year	Capacity Utilization (%)	Domestic Industry Market Share (%)	Unutilized Production capacity (%)
1999-00	18.04	23.71	81.96
2000-01	21.10	32.08	78.90
2001-02	36.74	27.74	63.26

Year	Demand volume	Sales volume
1999-2000	100	100
2000-2001	134	90
2001-2002	220	174

(Indexed figure)

84. The volume of sales of the domestic industry went up during the POI over the preceding financial year. It is also observed that the industry is not realizing the price in the POI as against the price in 2000-2001. Because of the pressure on prices from imports from subject country, the domestic industry is not able to realize a fair price or a reasonable rate of return. The selling price has decreased in the investigation period as compared to the previous year. The Authority notes that loss per unit has also decreased in the investigation period and further dumped imports have prevented the domestic industry from effecting legitimate price increase to realise a reasonable price.

Year	Sales Volume (Sq.M)	Sales Value (Rs.)	Unit Price (Rs./M)
1999-2000	****	****	****
2000-2001	****	****	****
2001-2002	****	****	****

Market Share in Demand

Share in demand	1999-2000	2000-2001	POI
Market Share of petitioner (%)	23.71	32.08	27.74
Share of dumped imports (%)	76.29	67.92	72.26

85. From the above table it is evident that the share of the petitioner in demand has decreased from 32.08% to 27.74% during the POI whereas share of dumped imports from Chinese Taipei has increased from 67.92% in 2000-2001 to 72.26% in the POI. The Authority has analysed and examined the import statistics and sales figure of the petitioner and noted that the dumped imports have displaced the demand of the domestic industry at the same time had to compete with the dumped imports of Green Veneer Tape from Taiwan to hold the market. The Authority, therefore, notes that the domestic industry is not able the reasonable price.

Inventories

86. The inventory of the domestic industry has increased from 41730 Sq. M at the end of March 2001 to 64748 Sq. M. as on 31.03.2002, which is very high in relation to production of the petitioner. The Authority notes that the under utilization of the plant along with the high inventory available with the petitioner, demonstrates that the dumped imports are causing injury to the domestic industry.

Employment

87. There has been no increase in the employment of the petitioner during the previous two years. Therefore, the Authority can not conclude that the trend in employment has lead to injury to the domestic industry.

	1999-2000	2000-2001	POI
Employment	59	67	67

Wages

88. The petitioner has claimed that wages are determined according to the provisions of Labour Laws as such wages cannot be changed according to the financial health of the petitioner companies.

Profitability

Year	Sales Value (Rs. in laks)	Cost of Sales (in lakhs)	Profit/Unit	Profitability
1999-2000	****	****	****	****
2000-2001	****	****	****	****
2001-2002	****	****	****	****

89. The loss per unit during 2001-2002 has marginally decreased due to reduction in costs of raw materials, and increase in capacity utilization. The cost of production of the domestic industry has declined in the POI whereas selling price has also declined. The domestic industry is incurring the loss due to the fact that the domestic industry is forced to reduce the selling price below its cost of production to hold on market due to dumped imports from subject country. The domestic industry has suffered material injury on account of depressed selling price resulting in non-recovery of cost of production and thereby suffering financial loss.

Return on Investment (Capital Employed)

90. As enumerated above the industry is operating at a loss and thus the domestic industry has not been able to earn reasonable return on its investments. Petitioner has claimed that the rate of return on investment during POI for the product under consideration is negative. The Authority notes that the loss per unit has also decreased in the investigation period; still, the dumped imports have prevented the domestic industry to recover or minimize its financial loss and improve the financial health of the industry.

Price Undercutting, Price Suppression/ Depression and Price underselling

91. In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the

dumped imports as compared with the price of the like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree.

92. The Authority has compared the landed value of imports of subject goods from subject country during the POI with the net sales realization and has found that there has been a significant price undercutting by the dumped imports. The landed value of imports has been found to be significantly lower than the domestic industry's net sales realization. The Authority further notes that the domestic industry was compelled to lower its prices as to hold on its market share to compete with the dumped imports from subject country.

93. The Authority has examined the claim of the domestic industry regarding the suffering on account of the losses from the sale of Green Veneer Tape. The Authority notes that the price underselling is an important indicator to make an assessment of the injury. The Authority has worked out the non-injurious price for the product under consideration and compared the same with the landed value to arrive at the extent of price underselling. The Authority notes that a significant level of incidence of price underselling causing injury to the domestic industry.

94. The petitioner claims that the imports were having significantly suppressing/depressing effect on the domestic industry. The Authority notes that the imports were having significantly suppressing/depressing effect on the prices in the domestic market, as the domestic industry has not been able to raise its selling price in view of the dumped imports. The selling price of the domestic industry is below the cost of production that results into a suppressing/depression effect.

95. Thus examination of the available evidence shows that the domestic industry has suffered injury on its sales of subject goods during POI. The Authority has determined the extent of price undercutting during the POI and holds that domestic industry has suffered significant price undercutting and price underselling during the POI due to dumped imports from subject country.

Growth

96. It is submitted and noted that due to the negative returns in the industry and continued dumped imports, the domestic industry is in a difficult situation to grow, as there is surplus available capacity to meet the domestic demand.

97. The exporters/manufactures who have not exported to India during the period of investigation may apply for review as new exporters under Rule 22 of anti dumping Rules Supra as and when they export to India.

Threat of Injury

98. As regards the threat of injury, the Authority notes that the Anti-Dumping Rules states as follows:

"A determination of a threat of material injury shall be based on facts and not merely on allegation, conjecture or remote possibility. The change in circumstances, which would create a situation in which the dumping would cause injury, must be clearly foreseen and imminent. In making a determination regarding the existence of a threat of material injury, the DA shall consider, inter-alia, such factors and;

- a. a significant rate of increase of dumped imports into India indicating the likelihood of substantially increased importation;
- b. sufficient freely disposable or an imminent, substantial increase in capacity of the exporter indicating the likelihood of substantially increased dumped exports to Indian market, taking into account the availability of other export markets to absorb any additional exports;
- c. whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices, and would likely increase demand for further imports; and,
- d. inventories of the article being investigated.

99. The Authority notes that the imports are severely undercutting the prices in the domestic market, which have been analyzed in details on prepages. The Authority is not having the sufficient evidence regarding surplus capacity available with the exporters. Therefore the Authority notes that there is not sufficient evidence to establish threat of injury as claimed by the petitioner.

Conclusions on Injury:-

100. From the foregoing, the following conclusions are made by the Authority regarding injury suffered by the domestic industry.

- a. Imports from the subject country have increased significantly in absolute terms.
- b. Imports from the subject country have increased in relation to the demand of Green Veneer Tape in India.
- c. Imports are significantly undercutting the selling price of domestic industry
- d. The profitability of the domestic industry has deteriorated due to dumped imports resulting into financial loss.
- e. The domestic industry is suffering from price suppression/depression, as landed price of the subject goods from the subject country is less than the cost of production of domestic industry.

- f. The domestic industry is suffering from price underselling as landed price of the subject goods are below the fair selling price of the domestic industry.
- g. The domestic industry has suffered material injury.
- h. There is not sufficient evidence regarding threat of injury .

Causal Link

101. The Authority holds that the increasing quantum of imports from subject country resulted in material injury to the domestic industry. Import of Green Veneer Tape has resulted in curtailment of sales contract of the domestic industry and also displaced the demand of domestically produced Green Veneer Tape. The dumped imports in effect started undercutting the prices of the domestic product compelling the domestic industry to sale below its fair selling price. Resultantly, the domestic industry was not in a position to realise its fair selling price and therefore incurred losses. Therefore the material injury was caused by the dumped imports from the subject country to the domestic industry. The injury to the domestic industry is a consequence of dumped imports of like article from subject country.

102. The domestic industry is facing injury due to dumping of Green Veneer Tape by exporters from subject country. The increase in imports from the subject country has had a direct impact on the prices. Resultantly, while the import volumes increased on the one hand, the domestic industry has been forced to lower its prices on the other hand. There is no contraction in demand, the demand has rather increased.

103. The demand of this product is increasing since there is no quality related issues pertaining to this product. Therefore, the argument related to pattern of consumption is not relevant. Thus, the increasing trend in consumption is a conclusive indicator of the consumption pattern Not being cause of injury.

104. Further, there are no other factors such as trade restrictive practice or development in technology, which could have caused material injury to the domestic industry.

INDIAN INDUSTRY'S INTEREST & OTHER ISSUES

105. The Authority holds that the purpose of anti-dumping duties, in general, is to eliminate injury caused to the Domestic Industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country.

106. The Authority also recognises that though the imposition of anti-dumping duties might affect the price levels of the products manufactured using the subject goods and

consequently might have some influence on relative competitiveness of these products, however, fair competition in the Indian market will not be reduced by these anti-dumping measures. On the contrary, imposition of anti-dumping measures would remove the unfair advantages gained by the dumping practices and would prevent the decline of the domestic industry and help maintain availability of wider choice of the subject goods to the consumers.

107. The Authority notes that the imposition of anti-dumping measures would also not restrict imports from the subject country in any way, and, therefore, would not affect the availability of the products to the consumers.

108. The Authority has not merely relied upon the submissions of the petitioners regarding fair selling price, rather the Authority deputed a team for on-the-spot investigation and verification of costing and manufacturing process of Green Veneer Tape, and worked out in detail the fair selling price of subject goods in India for the Domestic Industry separately.

109. Consumers have raised their arguments that the imposition of anti dumping measures would result in less competition and higher prices for consumers of Green Veneer Tape and may harm the user industry. The Authority notes that price advantages based on unfair practices are unjustifiable and may in the longer term be harmful even to the interest of consumer.

F. CONCLUSIONS:

110. The Authority has, after considering the foregoing, come to the conclusion that:

- i. Subject goods have been exported to India from subject country below its normal value;
- ii. The Indian industry has suffered material;
- iii. The injury has been caused by the imports from the subject country.

111. The Authority considers it necessary to impose an anti dumping duty on all imports of Green Veneer Tape from subject country in order to remove the injury to the domestic industry. The margin of dumping determined by the Authority is indicated in the paragraphs above. The Authority recommend the amount of anti dumping duty equal to the margin of dumping or less, which if levied, would remove the injury to the domestic industry.

112. Accordingly, the Authority recommends that definitive anti dumping duties as set out below be imposed by the Central Government on all imports of Green Veneer Tape falling under customs heading 48.11, 4811.4900, 48.23, and 4823.1900

originating in or exported from subject country. The Anti-Dumping duty shall be the difference between the amount mentioned in column no.9 of the following table and the landed value of imports per Sq. Mtr on all imports of subject goods falling under chapter 48 of the Customs Tariff, originating in or exported from the subject country mentioned below:-

Sl. No	Sub-heading	Description of goods	Specification	Country of origin	Country of Export	Producer	Exporter	Reference price	Unit of Measurement	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
1	48.11, 48.23, 4811.4900, 4823.1900	Green Veneer Tape	All grades	Chinese Taipei	Chinese Taipei	Any producer	Any exporter	0.13334	Sq. Mtr	US\$
2	48.11, 48.23, 4811.4900, 4823.1900	Green Veneer Tape	All grades	Any country other than Chinese Taipei	Chinese Taipei	Any producer	Any exporter	0.13334	Sq. Mtr	US\$
3	48.11, 48.23, 4811.4900, 4823.1900	Green Veneer Tape	All grades	Chinese Taipei	Any country other than Chinese Taipei	Any producer	Any exporter	0.13334	Sq. Mtr	US\$

113. Landed value of imports for the purpose shall be the assessable value as determined by the Customs under the Customs Act, 1962 and all duties of customs except duties under sections 3, 3A, 8B, 9 and 9A of the Customs Tariff Act, 1975.

114. Subject to the above, the Authority confirms the Preliminary Findings dated 23rd May 2003.

115. An appeal against this order shall lie before the CESTAT (Central Excise Service Tax and Appellate Tribunal) in accordance with the Act, supra.

(ABHIJIT SENGUPTA)
DESIGNATED AUTHORITY