

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

New Delhi, the 23rd December 2003

FINAL FINDINGS

Subject: - Anti-dumping investigation concerning imports of Copper Clad Laminates originating in or exported from China PR, Taiwan, Hong Kong, Korea RP, Singapore, Philippines and Thailand

No. 14/44/2002-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 following procedure has been followed with regard to the subject investigation:
 - i. The Designated Authority (hereinafter referred to as Authority), under the above Rules, received a written petition from M/s. Gujarat Perstorp Electronics Limited, Gandhinagar, on behalf of the domestic industry, alleging dumping of copper clad laminates (CCL) originating in or exported from China PR, Hong Kong, Taiwan, South Korea, Singapore, Philippines & Thailand (hereinafter referred to as subject countries);
 - ii. The Authority notified the Embassies of subject countries in India about the receipt of dumping application made by the petitioner before proceeding to initiate the investigation in accordance with sub-rule (5) of Rule 5 supra;
 - iii. The Authority issued a Public Notice dated 24th December, 2002 published in the Gazette of India, Extraordinary, initiating anti dumping proceedings concerning imports of copper clad laminates of Schedule I of the Customs Tariff Act.
 - iv. The Authority forwarded copy of the said public notice to the known exporters, importers, industry associations and to the complainant and gave them an opportunity to make their views known in writing.

- v. According to sub-rule (3) of Rule 6 supra, the Authority provided a copy of the petition to all the known exporters and Embassies/High Commissions of subject country in India.
- vi. The Authority sent questionnaires, to elicit relevant information, to the following known exporters from China PR, Hong Kong, Taiwan, South Korea, Singapore, Philippines & Thailand. M/s ISOLA Pacific Inc Philippines., M/s Doosan Corporation, Korea (RP), Shanghai Nanya, China PR ,M/s King Board laminates, Hong Kong, Nam Hing Industrial Laminate Ltd, China PR, and M/s. Nan Ya Plastic Corporation, Taiwan have responded to the exporters questionnaire. However, complete response has been received from M/s ISOLA Pacific Inc Philippines., M/s Doosan Corporation, Korea (RP), Shanghai Nanya, China PR . Some of the exporters as well as Importers asked for an extension of time to respond to the questionnaire and the Authority after considering the request from the exporters and importers extended the time period to reply to the questionnaire by two weeks.
- vii. The Embassies/High Commissions of subject countries in New Delhi were also informed about the initiation of investigation and requested to advise the exporters/producers from their countries to respond to the questionnaire within the prescribed time;
- viii. The Ministry of Foreign Trade, (MOFTU) Beijing, Govt. of China PR, Hong Kong, Taiwan, South Korea, Singapore, Philippines & Thailand were also informed about the initiation of investigation and requested to advise the exporters/producers from their countries to respond to the questionnaire within the prescribed time.
- ix. The preliminary findings were issued on 25th June and all the interested parties were requested to submit their comments within a period of 40 days. The Authority also forwarded a copy of preliminary findings to the Embassies of subject countries with a request that exporters and producers in their country may be advised to furnish their views on the preliminary findings.
- x. The Authority provided an opportunity to all interested parties to present their views orally on 20th October 2003. All parties presenting views orally were requested to file written submissions, of the views expressed orally. The parties were advised to collect copies of the views expressed by the opposing parties and offer rebuttals, if any.
- xi. Arguments raised by the interested parties before announcing the preliminary findings, which have been brought out in the preliminary findings notified have not been repeated herein for sake of brevity. However, the arguments raised by the interested parties are proposed to be considered in Final Findings.
- xii. Domestic verification (Domestic Industry and users) as well as exporters verification of the data submitted by them were undertaken by the Authority.

- xiii. The Authority kept available non-confidential version of the file maintained by the Authority and kept open for inspection by the interested parties;
- xiv. **** in this notification represents information furnished by the interested parties on confidential basis and so considered by the Authority under the Rules;
- xv. The investigation covered the period from 1st January 2002 to 30th September 2002;
- xvi. The Authority conducted on the spot investigation of the domestic industry, user industry, and exporters to the extent considered necessary.
- xvii. The cost of the production of the domestic industry was also analysed to work out the optimum cost of the production and the cost to make and sell the subject goods in India on the basis of Generally Accepted Accounting Principles based on the information furnished by the petitioner so as to ascertain if anti Dumping duty lower than dumping margin would be sufficient to remove injury to the domestic Industry.
- xviii. Copies of initiation notice were also sent to FICCI, CII, ASSOCHAM etc., for wider circulation.

B. Product Under Consideration

Submissions by the Domestic Industry

2. The product under consideration in the present petition is Copper Clad Laminates (CCL). Copper clad laminates are laminates of paper or glass fabric of a kind used to make printed circuit boards. A laminate is a multiple layer of paper or glass fabric which has been joined/fixd together using a resin. A foil of copper is laminated on the top of the sheet (either on one side or both sides) to provide current carrying capability to the laminate. There are various kinds of Copper Clad Laminates made out of Glass Epoxy, Paper Phenolic or Composite. These are further laminated with together with the copper foil which can be single sided or double sided depending upon the requirement which again could be of varying thickness. While thickness of the foil is largely uniform (18/35/70 micron), a number of prepregs can be laminated together depending upon the specific end requirement, resulting in varying thickness of the end product. Thus, while different laminates vary in terms of the associated costs and price (due to, primarily, difference in the raw material costs), different types of laminates result from the same production process. Subsequent to the public hearing, there is no fresh argument from the domestic industry except that it wants certain data to be mad available by some user industries who have asked for exclusion of certain grades on the ground of quality . Petitioner submits that as of now there is a mere unsubstantiated allegation by these interested parties. In fact, one of the parties conceded at the time of hearing itself that one of these types of laminates and are

"laminates of the future' and are "going to be increasingly used". Such being the case, petitioner wonder how can these interested parties demand exclusion of these types, but for possible mala fide intention to seek some ways to circumvent the duties imposed.

Product Under Consideration - Submissions by Exporters and importers- Views of IPCA, Bangalore, AT&S, Mysore, ECIL, Hyderabad, M/s Sulakshna Curcuits Ltd, Hyderabad, Sanmar Micropack Ltd, Bangalore, M/s Akasaka Electronics Ltd, Navi Mumbai, , M/s NSP Electronics Ltd, Bangalore, Multiline Electronics Private Limited, Pune, Gujarat Narmada Valley Fertilizers Co. Ltd., Gujrat, Deccan Circuits Pvt. Ltd, Pune, Multiline Circuits, Mumbai, M/s. U.V Circuits Pvt. Ltd. Bangalore, M/s. Shiltron Electronics & Engineering Pvt. Ltd. , Bangalore, Linaks Microelectronics Ltd, Lucknow, M/s. Circuit Systems India (Private) Ltd, M/s GNVFC Ltd., ITI Ltd. Bangalore, Cosmic Engineering Enterprise , M/s. Epitome Components Ltd., Ahmednagar, M/s. HI-REL Components (India) Ltd. M/s. Ascent Circuits Pvt. Ltd. Tamil Nadu, Shogini Technocrafts Pvt. Ltd. , M/s. Garg Electronics, Haryana, Emco, Electronics Ltd, Mumbai and others.

3.(i) IPCA has taken note of the categorization of the product under consideration in three broad categories which are paper phenolics, glass fabric and composite copper clad laminates with the various thicknesses and copper cladding. IPCA submits that actual cost of production would substantially vary in terms of the thickness and other properties. Hence, the claim of the domestic industry in the petition that the laminates of different thickness and other properties of one type are one and are the like products and are therefore, technically and commercially substitutable is factually wrong and erroneous. They have highlighted the attention of the Authority to the Rule 6(1) of the Annexure of Anti Dumping Rules, where due allowances have been sought to be granted for difference which affect price comparability. They have further stated that the laminates of specific thickness and other properties which cannot be manufactured by the domestic industry should be exempted from the scope of the present investigation. For manufacture of multi-layered PCBs, it is imperative to use laminates with thickness ranging from .075 mm to .80 mm. The final thickness of PCBs for which these thin cores or such laminates are used, are in the range from .6 mm to 3.2 mm based on the end requirement of the customer. They submit that the domestic industry does not produce such laminates and therefore, the same must be excluded from the purview of investigation.

- ii. M/s Gujarat Perstorp does not manufacture sophisticated laminates of quality with high CTI, High TG and Halogen free laminate also called popularly as green laminate and with special characteristics needed for intricate electronic equipment, defence and space application etc and as demanded by the international customers for their Printed Circuit Boards. These are specially

manufactured by International manufacturers and cannot be met by M/s. Gujarat Perstorp.

- iii. Importers of Single sided PCB use paper phenolic laminate, mainly of the FR-1 grade. This grade of copper clad laminate is used commonly for the PCB requirement of the consumer electronic sector such as TVs, audios, etc. The PCB manufacturers have no right to decide the copper clad laminate to be used for PCBs to be supplied to any of them. We can say with 100% confidence that most of the above MNCs and Indian companies with MNC backup have not approved Gujarat Perstorp as a laminate supplier for their PCB requirement.
- iv. The importers have observed various problems in the laminates while processing and these problems were thickness variation in laminates, blistering, copper peel off, twist, dents on surface, improper surface finish and so on. They add that they received instructions from their customers not to use the petitioner's laminates for the PCB. Lot of batches have been rejected and they are not satisfied with the quality supplied by the Gujarat Perstorp. They have mentioned inconsistency in quality and supply and inability of the petitioner to supply the material at the right time as the major factor for not buying the material from the petitioner.

Product Under Consideration - Examination by the Authority

4. The product under consideration as mentioned in the Initiation Notification in the present petition is Copper Clad Laminates (CCL) which are laminates of paper or glass fabric or composite of a kind used to make printed circuit boards and depending on the number of prepregs used and thickness of copper foil and its coating on the prepreg (i.e., both side or single side), a number of different types of copper clad laminates can be made to meet specific end requirement. The Authority notes that different subtypes of laminates differ significantly in terms of their associated costs and prices.

5. Manufacturing process of laminates involves impregnation of glass fabric or paper fibres with appropriate resin, drying of resin and hardening of Prepregs, forming of a laminate using Prepregs and copper foils, pressing of Prepregs in a Hydraulic Press and trimming and cutting to size. Depending upon the basic reinforcement used (paper or glass), type of binder used and copper cladding done, the product have been categorized as paper phenolic Copper Clad Laminates, glass epoxy copper clad laminates and composite copper clad Laminates. Some importers of the subject goods have pointed out that the Petitioner does not manufacture three prepregs of type 2116 and 1080 which are required for copper clad laminates bearing thickness less than 0.7 mm. It is also claimed that for the manufacture of multilayered laminates, it is imperative to use laminates with thickness ranging from .075 mm to .080 mm. They have further added that it is imperative to use prepregs and inner core of the same

manufacturer because of the problems of delamination which results into weak spots, ranging starvation resulting into rejection and registration failures. In response to the contention of the importers the petitioner has also confirmed that mix of laminates and prepegs of different suppliers is not advisable with regard to laminates below 0.8 mm thickness. Keeping in view the claims of the domestic industry, the response of the other interested parties and the available material on record, the Authority, has, therefore, restricted the scope of product under consideration of Copper clad laminates to thickness 0.8mm to 3.2 mm. The Authority also finds that the standards set by NEMA (National Electrical Manufacturers Association) are largely used by the producers and consumers alike and the same sufficiently describes technical parameters of the product. The Authority, therefore, confirms that product under consideration in the present investigation is copper clad laminates belonging to thickness 0.8 mm to 3.2 mm (both 0.8mm and 3.2mm inclusive) and which may be phenolic based on paper (NEMA grade FR 1&2 and XPC), glass based (NEMA Grade FR4 Single sided or double sided) and composite (NEMA grade CEM-1) (**hereinafter referred to as subject goods**). Thickness less than 0.8mm and more than 3.2mm and NEMA grades other than mentioned above are not under the scope of investigation.

6. The Authority also notes that Copper Clad Laminates are produced, sold and measured in terms of Square Meter, Numbers, Kilograms, Sheets, and Pieces etc. The product falls under customs classification 7410.21 under the Customs Tariff Act. The product attracted 5% basic customs_duty in the present investigation period.

C. Like Article

7. The Petitioner claimed that there is no major difference in the subject goods produced by the domestic industry and the subject goods imported from subject countries. The petitioner further claimed that the technology employed is also the same, even though the scale of operation may differ. Subject goods imported from subject countries and goods produced by the domestic industry were claimed comparable by the petitioner in terms of their characteristics such as physical/mechanical and electrical properties, manufacturing process & technology, functions & uses, product specifications, distribution & marketing, pricing and tariff classification of the goods. The two are technically and commercially substitutable. Petitioner further claimed that the consumers have used the two interchangeably. Goods produced by the petitioner were claimed to be a like article to the goods imported from the subject countries within the meaning of anti-dumping Rules. After the public hearing the petitioner has further stated that it would also be relevant to point out that while these parties have been arguing a lot about quality problems, the very same parties have purchased significant volumes from the petitioner and have, in fact, either significantly delayed payments or not made payments at all.

8. Importers, consumers and exporters have claimed that the goods produced by the petitioner are not comparable to the goods imported from the subject countries. They have pointed out various physical and chemical defects in the product sold by the petitioner and have also added that their products are not certified by the major international testing organizations, and major companies in the user industries who are mostly transnational. They have represented that these user industries specify their own standards and sources from where subject goods need to be sourced. They have also represented that the subject goods manufactured by the domestic industry do not get past the standards set by the major hardware manufacturers and thus they cannot source the material from the domestic industry. There are also arguments that the Copper Clad laminates have different thickness and costs of different subtypes are different based on the base material, thickness of Copper foil and number of prepregs used and thus they cannot be taken as like article and any comparison with the domestic manufactured goods need to take into account of these factors.

9. The Authority has examined the submissions made by the interested parties and has also examined the submissions of the domestic industry.

The Authority notes that Rule 2(d) defines like article as follows: -

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

The Authority notes that technical specifications of the subject goods produced and supplied by the petitioner are comparable to the goods imported from the subject countries and the two are comparable in terms of physical, chemical properties and substitutability in terms of its usage though the issue of absence of consistency in the quality of subject goods supplied by the domestic industry has been substantiated by the various importers and users who in turn are themselves producers of printed circuit boards in India. However the goods closely resemble in terms of various parameters except parameters which have already been mentioned and excluded in the product under investigation by the Authority and . As regards the claims of various interested parties regarding the poor and inconsistent quality of the subject goods produced by the domestic industry, the Authority holds that differences arising in the use of these two products have not been brought out quantifiably by any interested parties except the fact that there are problems of the consistency of quality in terms of various criteria from time to time.

10. For the determination of the Like Article, the Authority is required to see whether various types are comparable in terms of parameters such as product specifications,

physical and technical characteristics, manufacturing process and technology, plant and equipment, functions and uses, their substitutability, tariff classification and consumer perception. The Authority agrees that different types of laminates vary significantly in terms of associated costs and prices. These differences result due to use of different raw material and layers which different laminate has. However plant and equipment-manufacturing process employed to different types of laminates with different thickness and types along with their tariff classification, functions and uses are largely the same though there are significant variations in the production process in terms of various testing which is done by the exporters at each stage of manufacture and which is very vital in terms of its end use by various PCB manufacturers. However Keeping in view the arguments made by various interested parties, and the available material on record, the Authority holds that the subject goods (CCL belonging to Glass epoxy (FR4 D/S), paper phenolics (FR 1&2 and XPC and composite (CEM-1) pertaining to different thickness (between 0.8mm and 3.2mm) are like article to the goods imported from and sold in the subject countries.

D Domestic Industry

11. As there are no fresh argument with regards to the issue of the standings subsequent to the public hearing and preliminary findings, the Authority confirms that the petitioner constitutes a major proportion of the total domestic production of that article and hence they constitute domestic industry under Rule 2(b) of the Anti Dumping Rules. Accordingly, the petitioners satisfy the criteria of standing to file the petition on behalf of the Domestic Industry in terms of Rule 5(3) (a) of the Rules supra.

E. De Minimus

12. As regards ascertaining that the imports from the subject countries during the period of investigation (POI) are above de-minimus levels, the Authority has referred to the transaction wise data from the subject countries as made available by IBIS.

Import from subject countries Source IBIS		
Countries	Imports SQM	% of Imports from Subject countries
China PR	355556	29.38
Hong Kong	91724	7.58
Taiwan	135281	11.18
Singapore	22073	1.82
Thailand	21713	1.79
Philippines	261616	21.62
Korea RP	302919	25.03

The Authority holds that imports from Thailand and Singapore are de-minimus within the meaning of the Rule 14 of the Anti Dumping Rules.

F. Other Submissions made by various interested parties Quality Issues- Submissions made by the importers and Exporters:

13. (a) The different grades of laminates are formulated for various applications as per the requirements of end users. The basic specifications, which need to be met as per Neema specifications, are a) Flammability rating, b) Maximum operating temperature, c) Comparative tracking index. The M/s GPEL manufacturers primarily FR-4 laminate & other grade like FR-1, FR-2, CEM-1 and XPC were in the process of development. These grades are not meeting the requirements of the industry and Neema specifications. They have enclosed data sheets of various laminate manufacturers as mentioned below. Most of the users of the laminate specify the minimum requirements as given below:

Grade UL Classifications Operating Temperature CTI Value

XPC

GP-1200 -- -- --

CC-3610 94HB 130 degree 600V

NS-6711CT 94HB 130 degree 600V

MCL-43 94HB 130 degree 200V

DS-1125 94HB 130 degree 130V

FR-1

GP-2200 94V0 105 degree --

CC-3710 94V0 130 degree 600V

NS-6732CT 94V0 130 degree 525V

MCL-437F 94V0 130 degree 600V

DS-1107A 94V0 130 degree 600V

FR-2

GP-2500 94V0 -- 175V

CC-3700 94V0 105 degree 180V

NS-6704CT 94V0 105 degree 600V

MCL-417F 94V0 105 degree 600V

DS-1202 94V0 105 degree 600V

CEM-1

GP-5100 94V0 105 degree 200V

CC-5100 94V0 130 degree 200V

NS-4791 94V0 130 degree 200V

MCL-E479 94V0 130 degree 230V

DS-7106 94V0 130 degree 300V

FR-4

GP-6300 94V0 130 degree 200V

CC-5400 94V0 130 degree 100V

NS-4700 94V0 130 degree 150V

MCL-E67 94V0 130 degree 198V

DS-7405 94V0 130 degree 250V

Legend:- GP – Gujarat Perstorp

CC – Ching Kaung

NS – Shin Sung

MCL – Hitachi Chemical

DS – Doosan

Since M/s GPEL 's product of XPC, FR-1 & CEM-1 grade do not meet minimum technical specification & requirements , the same ought to be removed from the scope of present enquiry & duty.

- b. Further, some of the special requirements like high glass transition above 145 degrees; Green laminates (Halogen free) are not manufactured by the petitioners. Therefore these laminates should be exempted from the purview of present enquiry.
- c. In the case of Magnet Users Association Vs. Designated Authority 2003 (157) E.L.T. 150 there the subject product was "Hard Ferrite Ring Magnet" where the antidumping duty was imposed "on all grades and sizes" of ring magnet which included those not manufactured by Indian Industry. The CEGAT tribunal held that there is no justification for including grades of ring magnets, which are not, produced in India and therefore excluded them from the scope of antidumping duty. In the case of Videocon Narmada Glass Vs. Designated Authority 2003 (151) E.L.T. 80, the subject product was "Strontium Carbonate". The tribunal held that granular Strontium Carbonate was not manufactured by domestic industry so the tribunal found no justification for including granular Strontium Carbonate not produced in India, and therefore excluded them from antidumping duty. In the case of Oxo Alcohols Industries' Association Vs. Designated Authority 2001 (130) E.L.T. 58, the subject product was "Oxo Alcohol" where the antidumping duty was imposed on "Normal Hexanol" on the ground that product manufactured by use of normal hexanol can substitute the products manufactured by other Oxo Alcohol. The tribunal set aside the duty being imposed on normal hexanol on the ground that normal hexanol is not one manufactured or produced by domestic industry. In other cases also the tribunal had set aside the duty imposed on a product which is not manufactured by domestic industry (Indian Refractory case, Birla Periclase case etc.).
- d. Various interested parties have pointed out that the petitioner company is the sick company and suffering losses for the last many years and they have asked the domestic industry to differentiate the injury due to its sickness and alleged dumped imports separately. They have further clarified that though quality is not an issue in anti dumping investigations, the domestic industry has been losing orders not because of the price but because they could not supply consistently acceptable quality material. Various interested parties have submitted detailed analytical report indicating how the domestic industry could not supply the subject goods consistently within the give time range and with consistent quality as per the approved standards. They have further added that they had to resort to look for alternative sources after the petitioner company

failed to supply proper quality material. While the jurisprudence area of the anti dumping has not recognized the quality concerns as a legitimate basis to differentiate poor quality products from the product under consideration, the fact is that within this industry poor quality is fatal for the PCB manufacturers as a populated PCB is several times more than a blank PCB and the PCB manufacturer is penalized to the full extent of the cost of populated PCB by the consumer. It has further been added that constituent of domestic industry have repeated been providing poor quality. They have also enclosed confidential credit notes issued by the domestic industry during the POI. They have also specified that a majority of the subject goods pertain to high TG subject goods (TG more than 135), FR IV with CTI 400 and above, FRI and FRII with CTI more than 600 and FRI and FRII with copper thickness more than 70 and green laminates and these are not manufactured by domestic industry.

- e. It has been pointed out by the various interested parties that the other domestic producers of the subject goods M/s. Bakelite Hylam had severe quality issues and they have illustrated the records which show the problems being faced by material supplied by M/s. Bakelite Hylam Limited. They have further represented that the injury being faced m/s. Bakelite Hylam is clearly unrelated to any imports.
- f. The only petitioner in this petition is a BIFR company. The company sought refuge in BIFR in June 1997. Annexure 2 to Rules 5 of the anti dumping rules is unequivocal. Dumping can only be remedied if the dumping *causes* injury

"It must be demonstrated that the dumped imports, through the effects of dumping, and the export performance and the productivity of the domestic industry.

- g. M/s. Gujrat Perstorp has been before the BIFR since 1997, the onus is upon them to show that it is not the problems that took them to BIFR in the first place which are responsible for their continued injury, (if any), but rather than the alleged dumping which is causing them injury. Anything else would be contrary to law.
- h. A critical feature of the PCB industry is that its consumer must approve the copper clad laminate which is being used. This is best compared to the situation of a tailor, where the tailor must comply with its customers requirements on the brand of the material. It is not sufficient that the tailor replaces the brand with other similar or even identical brand. The customer specifies the mill from which the material must be sourced. Similarly, in this industry, if the PCB producer were to substitute the copper clad laminate of his own choice, besides the financial penalty that it would be compelled to bear, the material would just not be approved by the customer. This aspect should please borne in mind by

the Hon'ble Designated Authority prior to imposing anti dumping duty on all viable sources of copper clad laminates.

Submissions made by the Domestic Industry

14. (a) Petitioner has already provided detailed information, which shows that the domestic industry has suffered material injury due to dumping of the subject goods from the subject countries. The DA has already recorded a detailed findings on this account, which is relied upon. All the parameters, collectively and cumulatively, establish that the domestic industry has suffered material injury from the dumped imports.

- b. A number of arguments were raised by various parties at the time of oral hearings. These were, however, repeat of what has already been stated by them before the PF and therefore have already been addressed by the DA in the PF itself. There are no new argument brought out by any party with regard to injury and causal link. Such being the case, the DA may kindly confirm the interim findings and duties with suitable upward revision in the duties.
- c. The injury to the domestic industry is evident, inter alia, and in addition to the points already made by the domestic industry, increasing outstanding payments vis-à-vis sales made. A number of parties have withheld payments to the domestic industry (information being provided separately on confidential basis).
- d. Petitioner has earlier provided all relevant information for the purpose of the present investigation. Petitioner is willing to provide any further information which the DA may consider relevant in the present matter.
- e. Even though no fresh argument has been raised by any opposing parties, Petitioner would like to give a detailed rejoinder to any issue which these parties may like to raise in the present matter.

Submissions by Domestic Industry after Disclosure

15A. With regards to the like article and the submissions made by other interested parties about High TG, high CTI and other special laminates, the domestic industry has submitted that GPEL has not adopted this technology though capability exists to introduce these special laminates provided the demand is sufficient to warrant it. As regards quality problems, the domestic industry has submitted that it is a subjective issue and has not been substantiated adequately. They have further added that even the imported laminates can not claim to be 100% defect free. As regards the fact that technology up gradation not implemented by the GPEL, they have added that it calls for massive investment and being a BIFR unit, this could not be made possible. They have further added that Indian PCB market size being so insignificant and their

payment pattern so pathetic, no body would invest in a world class facility by installing the latest equipment and technology in Resin mixing, preparation of prepregs and vacuum pressing.

Submissions made by other interested parties (importers) after Disclosure

15B. As regards the subject goods, they have commented that M/s GPEL do not have similar parameters and characteristics as associated with the Like article. They have submitted that clubbing the three types of laminates together is untenable and unsustainable in light of the established jurisprudence in this area. It has been added by various importers that no valid arguments and even the basic points raised by them have not been answered by the domestic industry. On the issue of the injury, subject goods belonging to the different types can not be clubbed together as they have different applications. With regards to the volume injury, it has been submitted that M/s GPEL since last number of years was not a serious producer and never had a significant stake in the Indian market. Its production since 1995 had been less than 5% of its capacity and its contribution to the Indian market was all along very insignificant. It has also been submitted that the losses being caused to it are not due to imports as it has been in a loss for the last number of years and has been with BIFR. It can be due to reason other than import. It has also been added along with the evidence that as on date, the domestic industry has ceased to exist and with the closure of sole unit manufacturing copper clad laminates, the duty already levied, may kindly be withdrawn. They have, thus, concluded that there is no causal link between injury to domestic industry and alleged dumped imports from subject countries. It has been submitted by them that the Designated Authority should terminate the investigations as there is no on-going injury for the reasons that the closure of the domestic industry is primarily due to its own inefficiencies and not due to any real or apparent threat of injury and the continuation of investigations would offer no solace to the petitioners as it has already shut its Division. They have also enclosed a copy of the notice of closure submitted by M/s. Gujarat Perstorp Electronics Limited and addressed to Secretary, Department of Labour & Employment, Gandhinagar informing them that the domestic industry has decided to close down with effect from 3rd December 2003 for the reasons explained in the Annexure.

Examination by the Authority

15C. The Authority has examined all these issues under the appropriate headings in this final finding.

G. NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN:

16. Under Section 9A(1) I of the Customs Tariff Act 1975, Normal value in relation to an article means:

- 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
- When there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either:-
- 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
- The cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6)";

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

17. The Authority sent questionnaires to all the known exporters for the purpose of determination of normal value in accordance with Section 9A(1)I. Few exporters have responded to the questionnaire in the form and manner required as per letter to the exporters and exporters questionnaire.

1. M/s Doosan Corporation, Korea RP:

M/s. Doosan Corporation has responded to the exporters' questionnaire by giving information with regard to various appendices mentioned in the exporters' questionnaire. The Authority, after the public hearing, has verified all the data submitted by the cooperating exporter with regards to the cost of production, domestic sales price and the export price including all the adjustments claimed by the exporter. The Authority has assessed the normal value for the cooperating exporter after making all the adjustments required to be made at the ex-factory level as claimed by the exporter. Similarly, the authority has assessed ex factory export price of the cooperating exporter after allowing various adjustments as claimed by the exporter while arriving at net export price at the ex factory level. The Authority has worked out a Dumping margin for each of the different grades (NEMA) and thickness of copper

foil of the subject goods by making a comparison between the normal values at the Ex. Works level and export price at ex factory level. This comparison was based on the weighted average selling price of each type/grade/thickness of the subject goods manufactured by the producers/exporters and exported to India during the POI for which a comparable type/grade of the subject goods could be found. Thus, weighted average overall dumping margin was determined by computing the dumping found on each type without zeroing negative dumping found on individual types. The comparison showed the existence of dumping of the subject goods by the exporter during the POI. The weighted average dumping margin, expressed, as a percentage to the export price has been determined.

2. Other Exporters from Korea RP

The Authority notes that none of the other exporters has responded from Korea RP to the exporters' questionnaire. The claim made by the petitioner with regard to the determination of normal value has also not been disputed by the other interested party/parties. Under the circumstances Normal value under the rules is determined on the basis of facts available as per rules 6 (8). Therefore the information available on the estimated costs of the production in the country of origin plus selling, administrative and general expenses and a reasonable amount of profit after making reasonable adjustments has been taken as the basis for working out the normal value of the subject goods. The ex-factory export price has been arrived at taking the weighted average export price during the POI after making applicable adjustments towards commission, ocean freight, etc and thereafter the dumping margin for the Non cooperating exporters has been established.

3. M/s ISOLA Philippines, Philippines.

Subsequent to the preliminary findings, the exporter submitted the complete response to the questionnaire and the Authority, after the public hearing verified the data submitted by the exporter with regards to the cost of production, domestic sales, export sales to India and all the adjustments claimed by the exporter to arrive at the normal value and export price at the ex factory level. The Authority has assessed the normal value for the cooperating exporter after making all the adjustments required to be made at the ex-factory level as claimed by the exporter. Similarly, the authority has assessed ex factory export price of the cooperating exporter after allowing various adjustments as claimed by the exporter while arriving at net export price at the ex factory level. The Authority has worked out a Dumping margin for each of the different grades (NEMA) and thickness of copper foil of the subject goods by making a comparison between the normal values at the Ex. Works level and export price at ex factory level. This comparison was based on the weighted average selling price of each type/grade/thickness of the subject goods manufactured by the

producers/exporters and exported to India during the POI for which a comparable type/grade of the subject goods could be found. Thus, weighted average overall dumping margin was determined by computing the dumping found on each type without zeroing negative dumping found on individual types. The comparison showed the existence of dumping of the subject goods by the exporter during the POI. The weighted average dumping margin, expressed, as a percentage to the export price has been determined.

4. Other Exporters from Philippines

The Authority notes that none of the other exporters has responded from Philippines has responded to the exporters' questionnaire. The claim made by the petitioner with regard to the determination of normal value has also not been disputed by the other interested party/parties. Under the circumstances Normal value under the rules is determined on the basis of facts available as per rules 6 (8). Therefore the information available on the estimated costs of the production in the country of origin plus selling, administrative and general expenses and a reasonable amount of profit after making reasonable adjustments has been taken as the basis for working out the normal value of the subject goods. The ex-factory export price has been arrived at taking the weighted average export price during the POI after making applicable adjustments towards commission, ocean freight and thereafter the dumping margin for the Non cooperating exporters has been established.

5. M/s KINGBOARD Laminates, Hong Kong

The Exporter has not submitted the transaction wise information pertaining to domestic sales as per Appendix 1 of the questionnaire without which the test of the ordinary course of trade could not be carried out by the Authority. . The Authority notes that the exporter has not submitted information in the form and manner required under the exporters questionnaire. As no information has been submitted under Appendix 8 and no transaction wise information has been furnished by the exporter, the Authority can not determine whether the sales have made in the ordinary course of trade. The claim made by the petitioner with regard to the determination of normal value has also not been disputed by the exporter. Under the circumstances Normal value under the rules is determined on the basis of facts available as per rules 6 (8). Therefore the information available on the estimated costs of the production in the country of origin plus selling, administrative and general expenses and a reasonable amount of profit after making reasonable adjustments has been taken as the basis for working out the normal value of the subject goods. Export price at the ex-factory level has been determined by taking weighted average export price to India from Hong Kong with applicable adjustments and thereafter the dumping margin has been established.

6. Other Exporters from Hong Kong

The Authority notes that none of the other exporters has responded from Hong Kong to the exporters' questionnaire. The claim made by the petitioner with regard to the determination of normal value has also not been disputed by the other interested party/parties. Under the circumstances Normal value under the rules is determined on the basis of facts available as per rules 6 (8). Therefore the information available on the estimated costs of the production in the country of origin plus selling, administrative and general expenses and a reasonable amount of profit after making reasonable adjustments has been taken as the basis for working out the normal value of the subject goods . The ex-factory export price has been arrived at after taking into account weighted average export price for the type/grade during the POI and making applicable adjustments towards commission, ocean freight, etc and thereafter the dumping margin for the Non cooperating exporters has been established.

7. Exporters from Taiwan

The Authority notes that none of the exporters has responded from Taiwan in the form and manner pertaining to the exporters' questionnaire. The claim made by the petitioner with regard to the determination of normal value has also not been disputed by the other interested party (ies). Under the circumstances Normal value under the rules is determined on the basis of facts available as per rules 6 (8). Therefore the information available on the estimated costs of the production in the country of origin plus selling, administrative and general expenses and a reasonable amount of profit after making reasonable adjustments has been taken as the basis for working out the normal value of the subject goods The Authority, therefore, has determined the normal value for other exporters from Taiwan as per the best information available in terms of 6(8) of the anti dumping rules. The ex-factory export price has been arrived at after making applicable adjustments towards commission, ocean freight and thereafter the dumping margin for the Non-cooperating exporters has been established.

8. M/s Shanghai Nanya, China PR

The Authority provided opportunity to the known exporters from China PR to furnish information relevant to the investigations and offer comments, if any, in accordance with the Section 9A(i)© . The Authority also communicated to the known exporters and to the Embassy of China in India that it proposes to examine the claim of the petitioner in the light of para 7 & 8 of the Annexure I of the Anti Dumping rules as amended. . Only one of the exporters from China PR i.e. M/s. Shaghai Nanya , PR have responded to the Authority with complete response to the questionnaire. The Chinese exporter M/s Shanghai Nanya which replied to the Authority's exporters

questionnaire requested Market economy treatment on the basis of the submissions made in response to the specific questions asked by the Authority for enabling the cooperating exporter to rebut the presumptions pertaining to the Para 8(3) of the Annexure 1 to the Anti Dumping Rules (grant of market economy treatment). In examining the merits of the claim, the Authority sought to verify whether the producer/exporter which cooperated in the proceedings enjoyed a degree of legal and factual independence from the state, comparable to that which would prevail in a market economy country and which would justify the authority in proceeding with determination of the normal value as per para 1-6 of the Annexure I of the Anti-Dumping Rules, thereby justifying itself in accepting the rebuttal in terms of paragraph 7 and 8 of the Annexure I of the Anti Dumping rules. To this end detailed questions regarding the ownership, management control, determination of commercial and business policies were addressed to the exporter/producer. None of the producers with the sole exception of the M/s Shanghai Nanya responded to the Authority, that their operations were sufficiently independent from the Chinese Authorities to qualify for the market economy treatment.

M/s Shanghai Nanya is a legal entity incorporated in the CHINA PR with no equity holdings from the state/government. The Authority carried out on the spot verification at the premises of the company in order to examine the circumstances under which it operated and its relations with the state. In particular, the company was able to show, to satisfaction of the Authority that management and the control of the factory, both in terms of production, marketing and pricing was clearly in their hands and their operations were sufficiently independent from the state.

In view of the above, it was considered possible to grant market economy treatment to the cooperating exporter and consequently proceed to determine Normal value vide paragraphs I-6 of the Annexure I to the Anti Dumping Rules.

In order to establish normal value for only cooperating exporter/producer M/s. Shanghai Nanya, it was first determined that whether the total domestic sales of the subject goods by the producer was representative when compared to their total sales of the subject goods concerned sold in the exporting country and whether their sales are under ordinary course of trade in terms of Rule 2 of the annexure I to the anti dumping rules. The authority notes that the domestic sales of the co-operating exporter was representative sales. In order to find whether these are under ordinary course of trade, the Authority analysed the cost of the production of the subject goods and compared with it to the transaction wise information submitted by the cooperating exporter with regard to the domestic sale prices of the subject goods. The Authority further verified the cost of production of the subject goods as per the records kept by the co-operating exporter in his book of accounts and discovered that the domestic sales are under ordinary course of trade within the meaning of the Anti Dumping

rules. The Authority determined the normal value for the cooperating exporter as US***** at the ex factory level after netting back all the adjustments which were duly verified by the Authority. The export price at the ex factory level was also determined after netting back all the adjustments.

9. Other Exporters from China PR

The Authority notes that none of the other exporters has responded from China PR to the exporters' questionnaire. The claim made by the petitioner with regard to the determination of normal value has also not been disputed by the other interested party/parties. Under the circumstances Normal value under the rules is determined on the basis of facts available as per rules 6 (8). Therefore the information available on the estimated costs of the production in the country of origin plus selling, administrative and general expenses and a reasonable amount of profit after making reasonable adjustments has been taken as the basis for working out the normal value of the subject goods. The Authority, therefore, has determined the normal value for other exporters from China PR as per the best information available in terms of 6(8) of the anti dumping rules. The ex-factory export price has been arrived at after making applicable adjustments towards commission, ocean freight and thereafter the dumping margin for the Non-cooperating exporters has been established.

Country	Name of the Exporter/Producer	D.M%
Korea RP	M/s DOOSAN Corp,	21.28
	Other Exporters	56.46
Hong Kong	All Exporters	40
Taiwan	All Exporters	40.67
Philippines	M/s ISOLA	6.2
	Other Exporters,	39.47
China PR	M/s Shanghai Nanya	NIL
	Other Exporters,	57.17

H. INJURY:

18. For the examination of the impact of the imports on the domestic industry in India, the Authority considered 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

1. The effect of the dumped imports shall be assessed, in accordance with para 6 of the Annexure II to the Rules, in relation to the domestic production of the Like Article when available data permits separate identification of that

production on the basis of such criteria as the production process, producers' sales and profits. If such separate identification of that production is not possible, the effect of the dumped imports shall be assessed by the examination of the production of the narrowest group or the range of products, which includes the like product for which the necessary information can be provided.

2. It is observed that though the different types of copper clad laminates have different characteristics, usage, etc. there are a number of processes, which use common equipment and facilities. In view of the fact that the production processes as well as the production capacities overlap each other in varying proportions, it would not be appropriate nor feasible to assess the injury to the domestic industry for each individual types of laminates. The Authority, therefore, in accordance with para 6 of the Annexure II to the Anti-Dumping Rules, considers it appropriate to assess the injury for all different types of copper clad laminates cumulatively.

EXAMINATION BY THE AUTHORITY

19. Analysis of Injury to the domestic industry has been done on the basis of the information available on record and the verification done by the officials of Directorate of Anti-Dumping & Allied Duties. The injury determination and injury analysis have been done on the basis of imports of subject goods from the subject countries during the POI and preceding years. For determining total volume of imports during the POI and previous years, the Authority has taken the import data of the subject goods from for subject countries and countries other than subject countries as no transaction wise data has been made available with the units as square meter from DGCI&S. Moreover, Exporters have mentioned units as SQM as unit of exports in all their transactions. For the purpose of determining price undercutting, price underselling and price suppression and price depression, the Authority has compared the different CCL (Glass based, fibre based and composite), which is imported from the subject countries and those, which are manufactured and sold by the domestic industry. Further, for comparison, the Authority has taken the appropriate thickness of different CCL which has been modal during the POI and which have been sold in the largest number within various bases (glass, fibre and composite) by the domestic industry as well as largest in terms of imports from subject countries.

Volume Injury

Absolute rise in Imports from Subject Countries and their market share in Total Imports

1. It is noted that the imports of subject goods from subject countries have increased significantly in absolute terms. Further, it is also noted that share of

imports of the subject goods from the subject countries increased significantly in relation to total imports of the products into India.

Imports of Subject goods from the subject countries Units SQM				
	99-00	2000-01	Ap-De Ann	POI Ann
Subject countries	984241	992044	1279763	1587843
Other Countries	65912	33467	15458	25630
Total Imports	1050153	1025511	1295221	1613473

Share of imports from subject countries as a proportion to demand.

- The Authority has calculated the total demand in the country by adding the total imports to the sales of the domestic industry of the product under consideration. The Authority notes that the share of China PR, Hong Kong, Taiwan, South Korea, and Philippines in total demand of the subject goods has increased during the POI while the share of other imports has increased marginally. Thus, the Authority concludes that there has been a rise in the market share of imports of the subject countries as a share of total demand and it has increased significantly during the POI as compared to previous years.

Imports of Subject goods from the subject countries Units SQM				
	99-00	2000-01	Ap-De Ann	POI An
Subject countries	100	100.7	130.03	161.3
Other Countries	100	50.78	23.45	38.89
Total Imports	100	97.65	123.34	153.64

Share of subject countries in total Imports (%)				
	99-00	2000-01	A-D 01 An	POI Ann
Subject countries	93.72	96.74	98.81	98.41
Other Countries	6.28	3.26	1.19	1.59
Total Imports	100	100	100	100

Increase in Share of Imports in relation to production of domestic industry.

- The share of imports of the subject goods from the subject countries have increased in relation to the production of the domestic industry though the market share of the domestic industry has improved during the POI as compared to preceding year. The Authority concludes that the domestic industry has not suffered any decline in market share during the POI as compared to preceding year though its share continues to be dismal in relation to the total demand.

Share of Domestic Industry in total demand				
	99-00	2000-01	A-D 01 An	POI Ann
Subject countries	55.8	56.64	67.2	86.11
Other Countries	3.74	1.91	0.81	1.39
Domestic Industry	13.35	17.29	9.77	11.96
Other Producers	27.12	24.16	22.22	.54
Total	100	100	100	100

Production and Capacity Utilisation

- The production and the capacity utilization of the domestic industry has increased during the POI as compared to the preceding nine months. The Authority , therefore concludes that the domestic industry has not suffered ay injury on account of loss of capacity utilisation though the capacity utilisation itself remains very dismal as compared to the total demand of the subject goods. The domestic sales of the domestic industry has increased during the POI as compared to the preceding period though they have declined very marginally from 00-00. The Authority notes that both the capacity utilisation and domestic sales have not caused any injury to the domestic industry during the POI as compared to preceding year tough the domestic industry continues to suffer low capacity utilization and domestic sales since earlier years.

PRICE EFFECT

- As regards the impact of the dumped imports on the domestic industry the principle (iv) of Annexure-II of the Anti-Dumping Rules states:

"The examination of the impact of the dumped imports on the domestic Industry concerned, shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including natural and potential decline in sales, profits, output, market share, productivity, return on investments or utilisation of capacity; factors affecting domestic prices, the magnitude of margin of dumping; actual and potential negative effects on cash flow inventories, employment, wages, growth, ability to raise capital investments."

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. The Authority has compared the landed value of imports of subject goods from subject countries during the POI with the net sales realization and has found that there has been a significant price under-cutting 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 has also examined the claim of the petitioner that the domestic industry is suffering on account of the losses from the sale of Copper Clad Laminates. The Authority notes that 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 analysis shows a significant level of incidence of price underselling causing injury to the domestic industry. Additionally, the imports were having significant suppressing/ depressing effect on the prices in the domestic market, as the domestic industry had not been able to raise its selling price in view of the dumped imports of the subject goods. Thus examination of the available evidence shows that the domestic industry as a whole has suffered injury on its sales of subject goods during POI. The Authority has determined the extent of price undercutting during the POI and concludes that the domestic industry has suffered price undercutting and price underselling during the POI because of import from the subject country.

Selling price

6. The selling prices of the domestic industry have declined during the POI as compared to 2000-01. However the Authority also notes that their cost of production has come down in almost the same proportion. It is also noted that the domestic industry has been making continuous losses since past several years though they have cut their losses during the POI as compared to preceding year. The Authority after examining the evidence concludes that the firm is facing injury on account of continuing losses over the years though the losses have come down during the POI as compared to preceding year but is higher than 99-00.

Inventories

7. There is no apparent change in the inventory position of the domestic industry during the POI as compared to preceding year though sales have increased during the POI over the preceding year. However these are much higher as compared to their production and as compared to the year 99-00. The Authority after examining the evidence concludes that the firm has not faced injury on account of higher inventory of the subject goods during the POI as compared to the preceding year though the inventory levels are higher as compared to year 99-00.

Productivity & Growth:

8. The productivity of the domestic industry (production per employee) has improved marginally as compared to preceding nine months. It is also noted that the growth of the company has been negative during the POI as compared to the preceding years. The Authority after examining the evidence concludes that the firm is facing injury on negative growth.

Closure of No. of Producers:

9. It is noted that the other producers of the subject goods in India has closed down their production and the Petitioner is the sole company left as the domestic industry. Subsequent to the public hearing, the other domestic producers namely M/s PCS industries and M/s Bakelite Hylam has represented that they have closed down their operations due to dumping from the subject countries. However, after the After the public hearing, they have not submitted any documents or substantiated any contention which proves that they have closed down their operations due to dumping from the subject countries. On the contrary, various interested parties have placed records before the Authority that shows that the domestic industry had severe quality issues in terms of consistent supplies to the user industries. However, on the basis of evidence made available before the Authority, it can not be conclusively proved that closure of a number of producers had been on account of dumping of the subject goods from the subject countries.

Ability to raise fresh investments.

10. It is noted that the petitioner has got some loans from the financial institutions earlier. The petitioner claims that the funds drawn could not be utilized due to existing adverse performance and higher interest burden. It is also claimed that so severe has been the impact of dumping that even the repayment of existing liabilities has become difficult, leave aside fresh investments. The Authority has examined the contention of various interested parties and notes that in view of the situations prevailing, the firm has little ability to raise the investments.

Employment:

11. It is noted that the employment with the company has marginally declined during the POI as compared to 2000-01 though it has increased from 99-000. However, based on the evidence made available, the Authority could not conclusively determine any injury on account of loss of employment.

Cash Flow and Profitability:

12. The cash flow of the company, which had become positive during 2000-01 has been declining continuously thereafter and has been negative since that time. The Authority after examining the evidence provisionally concludes that the firm is facing injury on account of declining cash flow.

Price Suppression/Depression and Price Underselling.

13. It is noted that the landed price of the imports are lower than the cost of production of the domestic industry. Additionally, the

Economic Parameters Relating to the Injury					
	Units	99-00	2000-01	Ap-De An	POI Ann
Installed capacity	Index	100	100	100	100
Production	Index	100	140	91	100
Capacity Utilisation	% Index	100	140	91	100
Sales Domestic	Index	100	129	79	94
Sales Other producers	Index	100	88	24	8
Opening Stock	Index	100	58	148	160
Closing Stock	Index	100	253	273	213
Cost of Production	Index	100	105.4	104.99	87.71
Avg Selling price	Index	100	117	108	92
Profit/Loss	Index	-100	-32	-87	-58
Working Capital	Index	100	110	102	90
Capital Employed	Index	100	103	101	98.9
Return on capital	Index	-100	-22	-78	-50
Salary &Wages	Index	100	152	161	158
Productivity	Index	100	113	77	85
Growth	%	100	15	-20	-31

selling price of the domestic industry is below the cost of production of the domestic industry, which has resulted in price underselling by the domestic Industry. The Authority after examining the evidence provisionally concludes that the firm is facing injury on account of price suppression and price underselling.

Price Undercutting in Copper Clad Laminates (in Rupees) PSQM

Price Undercutting during POI				
Country	Net selling Price petitioner	Landed Price from subject country	Price Undercutting	Wt Avg Price Undercutting%
China PR	****	****	****	22%
Hong Kong	****	****	****	
Taiwan	****	****	****	

DOOSAN, Korea	****	****	****
Others Korea	****	****	****
ISOLA, Phillipines	****	****	****
Others, Phillipines	****	****	****

Conclusions on Injury

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

1. Imports from the subject countries of subject goods have increased significantly in absolute terms and also in relation to total imports of Copper Clad Laminates in India. Imports from the subject countries have also increased in relation to the demand of Copper Clad Laminates in India.
2. The market share of the domestic industry has improved during the POI as compared to the preceding year. Their capacity utilisation has also improved during their POI as compared to the preceding year though capacity utilisation as such remains quite dismal. The domestic sales have also increased during the POI as compared to the preceding year and their production also has marginally improved.
3. Imports are undercutting the selling prices of the domestic industry. The petitioner is suffering from price underselling also as landed price of subject goods are below the Non Injurious price or fair selling price of the domestic industry. The domestic industry has suffered losses on account of sales on subject goods. However it is also confirmed that they have been incurring losses for last several years also.
4. On the basis of the foregoing, the Authority observed that the domestic industry has suffered material injury.

I. CAUSAL LINK

21. It has been vehemently argued by a number of interested parties that the injury suffered by the Domestic Industry, if any, cannot be attributed to the dumped imports. It has been asserted that in the absence of the causal relationship no anti-dumping duties can be imposed even if the Designated Authority reached a conclusion of existence of dumping and injury to the Domestic Industry. In support of their contention, the interested parties have mainly advanced the following arguments:

- a. While it is submitted that it may be legally permissible to protect the Domestic Industry under BIFR, it is obligatory on the Designated Authority to look into

the reasons for the injury suffered by the complainant if a unit has been under BIFR as a sick company.

- b. The Domestic Industry has been able to increase its market share when the imports from the subject countries had gone up. This clearly established that there is no causal link between the alleged dumping of goods and the claimed injury of the Domestic Industry.
- c. Progress Report on the implementation of the Scheme under BIFR indicates that the real cause of the alleged injury was the steep reduction in the import duties. While it has been mentioned that the petitioner has approached the Designated Authority for imposition of anti-dumping duties, it is submitted that this approach is legally flawed as the injury on account of fall in customs duties cannot be remedied by imposition of anti-dumping duties. It is well understood that the purpose of customs duties is quite different from that of anti-dumping duties and the latter cannot be resorted to if the Government itself, in its wisdom and exercise of the sovereign powers, decides to lower the general level of protection to the Domestic Industry.
- d. Annexure IV of the above said report clearly admits that time delay in the process of implementation of the scheme resulted in additional losses to the extent of Rs. 671 lakhs.
- e. The decline in turnover by Rs. 4088 lakhs during October 1998 to March 2002, and the resultant losses have been attributed to factors other than the alleged dumping. The Designated Authority has not addressed these crucial factors (refer Annexure IV of the report).
- f. **GPEL has been a sick unit since its inception:** GPEL has been performing poorly since its very inception in 1993. The unit, in fact, closed down in 1995 and had to approach BIFR in the year 1996. The BIFR in its Sanctioned Scheme Order gave the reasons for the poor performance of GPEL in detail. It is submitted that the petitioner has misled the Authority by not declaring the pertinent details to the Designated Authority. It was held that Gujarat Perstorp Electronics Ltd. (GPEL) at the time of setting up in October 1993 had cost overrun to the tune of over 28% and that the operations of the unit have been unsatisfactory since inception. In addition, the following observations were made by the BIFR:

- Problems in absorption of technology
- Management deficiency
- High debt burden
- Delayed quality test reports resulting in production delays
- Deficiencies in plant & machinery restricted capacity utilization
- Cash losses led to liquidity and working capital constraints

- g. It can be seen from the above that the cause of the alleged injury cannot be attributed to the alleged dumping as the plant was in pathetic financial condition even during the period when there was no allegation of dumping. The poor performance of the petitioner cannot be attributed to the alleged dumped imports. The case, therefore, completely fails on ground of lack of causality.
- h. Low Capacity of the Petitioner:

Thus, the petitioner is not in a position to meet even 18% of the total Indian requirement. It is submitted that the supply position of the domestic producer has to be seen in the context of their best achieved capacity and the fact that there are severe constraints upon them to enhance their capacity due to financial mismanagement and consistently poor performance (refer BIFR document).

- i. **Poor and Inconsistent Quality:** Evidence has been submitted to suggest that the quality of the Copper Clad Laminates supplied are not up to mark and, therefore, cannot be used in the manufacture of a product which is ultimately used in sensitive electronic equipment.
- j. **Technological and other problems:** The technological capability of GPEL has been questioned on the following ground:
 - i. Non-availability of trained manpower as not many laminate manufacturers are there.
 - ii. Plant and machinery used for the process was elementary. Some of the machineries were fabricated locally and had resulted into serious quality problems (this fact has been acknowledged by GPEL in BIFR case).
 - iii. The so called technology collaborator, M/s. Perstorp is not a name to be reckoned with at international level. As a matter of fact, Perstorp sold their business to Polyclad about four years ago. As such, GPEL has no access to any technology.
 - iv. The knowledge base in quality, production and manufacturing processes is very poor.
 - v. It is not a QS 9000 approved company. Many PCB customers insist on buying inputs from a QS 9000 company only.
 - vi. Their market thrust is extremely poor. The company has only one production location and nobody would like to buy from such a company as in the event of production disruption, there is no fall back option.
 - vii. GPEL does not have backward integration. They have to depend on import raw material prices.
 - viii. The first pass yield is 80% as against overseas laminate manufacturers where it is more than 95%.

- k. **Obsolete Technology and Lack of Upgradation: It has been said that GPEL** has acquired technology from its collaborator M/s. Perstorp, Sweden. It is further said that Perstorp is not a name to be reckoned with at international level. As a matter of fact, Perstorp sold their business to Polyclad about four years ago and there is no question of their having access to the latest technology or even any kind of upgradation.

Examination by the Authority of Causal Link

22. The authority has carefully examined the submissions made by different interested parties in respect of the issue of causal link. Subsequent to the preliminary findings, a detailed examination was made by the Authority with regards to the issues pertaining to the material injury to the domestic industry and causal link between the material injury to the domestic industry and dumped imports. Paragraph (v) of Annexure II of the Anti-dumping Rules reads as under:

"(v) It must be demonstrated that the dumped imports are, through the effects of dumping, as set forth in paragraphs (ii) and (iv) above, causing injury to the domestic industry. The demonstration of a causal relationship between the dumped imports and the injury to the domestic industry shall be based on an examination of relevant evidence before the designated authority. The designated authority shall also examine any known factors other than the dumped imports which at the same time are injuring the domestic industry, and the injury caused by these other factors must not be attributed to the dumped imports. Factors which may be relevant in this respect include, inter alia, the volume and prices of imports not sold at dumping prices, contraction in demand or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and the productivity of the domestic industry."

- a. In determining whether injury to the domestic industry was caused by the dumped imports, the Authority examined the impact of all known factors and their consequences on the situation in the Industry. Known factors other than dumped imports which could at the same time, have injured the domestic industry, were also examined to ensure that the possible injury caused by these other factors was not attributed to the dumped imports. The Authority notes that none of the arguments advanced by various interested parties with regards to the various issues including the issues raised concerning injury and causal link have been addressed by the domestic industry in their rejoinder. In fact, no rejoinder has been filed by the domestic industry subsequent to the written submissions following public hearing.

- b. Effects of the Dumped Imports: Between 1999-2000 and the POI, dumped imports from the subject countries in market share from 55.8% in 1999-00 to 82.67%) in the POI. During the POI, it was 98.5% of the total imports. As regards the export prices, they decreased substantially during the whole period under consideration and undercut the domestic industry prices during the POI on an average by 22%.
- c. Effects of Other Factors: Closure of other two industries producing the subject goods. Few importers have suggested that other domestic producers namely M/s Sandur laminates, which was a 100% EOU and M/s Bakelite Hylam who had closed down in 1999, has nothing to do with the injury due to dumped imports from subject countries. M/s Bakelite Hylam and M/s PCS Industries have submitted their production details up to 2001-02 and have confirmed that they had closed down their operations due to the dumping from a number of countries. Subsequent to the public hearing, however, both M/s. Bakelite Hylam and M/s. PCS Industries have not submitted any evidence/documents with regard to the fact that they have closed down their operations due to dumping from subject countries. Therefore, the authority on the basis of records available cannot conclusively determine that these two industries have closed down operations because of dumping from subject countries.
- d. Company registered with BIFR

- 1. It has been submitted by various interested parties that the petitioner company has significantly eroded its net worth over the past number of years due to inefficient performance and not due to alleged dumped imports. It has also been submitted that the company has already registered with a competent Authority (BIFR) for a rehabilitation package and continued losses being suffered by the petitioner company in over the last number of years cannot be attributed to the alleged dumped imports. The Authority finds truth in the statement that the company has been found to have eroded its net worth due to reasons set out in the report as claimed by the various interested parties. It is also noted that competent Authority has found certain reasons for the sickness of the company and has further found that in case the company takes certain steps in overcoming these shortcomings, the company would become viable again. The Authority notes that the company has been suffering injury for a very long period and there could be several causes for this prolonged injury. Reasons for the injury has been well brought out in the report by the competent authority and certain action has already been taken by the petitioner as per the copies of the return filed before the competent Authority as submitted by the petitioner. However the Authority agrees after examining all the records that certain areas namely problems in absorption of technology, delayed quality test reports resulting in production delays, deficiencies in plant & machinery and therefore

restricted capacity utilization have remained persistent. Though the injuries earlier suffered by the domestic industry as set out in the report as mentioned earlier and now being suffered by the domestic industry is due to the time periods, the Authority notes that the domestic industry has not taken sufficient steps towards building any capacity or any improvements in technology as mentioned in other heads or maintaining consistent supplies knowing fully well that even one negative test out of several testing results can cause enough damage to the user industry (this could be as high as 50 times the cost of the copper clad laminates).

2. After the preliminary findings, it has been alleged by the various interested parties that the company has closed down its operations and is no longer producing any subject goods even after the Provisional anti dumping duties are in operations. The Authority has verified the records on 11th December 2003 of domestic industry and notes that it has significantly curtailed its operations even after imposition of provisional anti dumping duties and no of days layoff has significantly increased during last 6 months. The Authority noted on a verification visit that the company was not in operation. It also noted that the petitioner had conveyed to the BIFR that " in view of the prevailing scenario of CCL manufacturing in India, operations of the company are not viable and hence the Honourable BIFR has been requested to consider and take on its record the conclusion about the company not being viable in the current circumstances" and they have further requested BIFR to pass a suitable order under the applicable provisions of the Sick Industrial Companies Act, 1985. Subsequent to the disclosure statement, various interested have informed the authority of a closure notice sent by the domestic industry with effect from 3rd December 2003.

e. Contraction of Demand or Changes in the Pattern of Consumption:

The Authority could not find any evidence of contraction of demand. However, the authority has verified the submissions made by the exporters and user industry in terms of the technical characteristics of the subject goods, which are now in demand, by the user industry of the subject goods. The authority notes that there is an increasing demand and consumption of the subject goods with high TG (TG more than 135), FR 4 with CTI 400 and above, FRI and FRII with CTI more than 600, green (halogen free) laminates in all the types/grades. Correspondences with the domestic industry have been placed before the authority by the user industry, which indicates that the domestic industry is not in a position to supply the subject goods with the above-mentioned technical specifications. On the basis of the foregoing, the authority notes that there is a change in the pattern of consumption and the domestic industry has not been able to live with and technologically upgrade the subject goods

as per the changed pattern of consumption. The authority thus, concludes that certain injury to the domestic industry has been caused by the change in the pattern of consumption and not due to dumping from subject countries.

f. Imports from Third Countries:

According to the information placed before the Authority, the total import volume of the subject goods originating in third countries remained a small proportion of the total imports made by subject countries and their market share fluctuated around 2% . Therefore, they are considered not to have had a significant impact on the domestic Industry.

g. Developments in Technology

In manufacturing Copper Clad Laminates, The Technology, Equipments, Process Control & the selection of Raw material plays the major role. Basically there are three major process in the manufacturing of CCL. 1. Mixing the Resin 2. Generating Prepregs 3. Pressing

1. In case of selecting the resin and mixing , suitable chemistry is important factor and continuous research is required to change the composition to suit the advanced requirement of the electronic industry. For example for increasing the TG of the laminate the resin system is different. In case of Thin laminates for Multilayers Tetra functional laminates are being used for improving the dimensional stability and again the resin system is different. Also in case of Environment friendly Laminates Non-Brominated resin is being used which does not have any other hazardous chemicals.

But GPEL largely uses a single resin system and has not developed combinations which industry needs on a consistent basis. It has also been verified by the Authority that they have not implemented automation system in their resin mixing so that subject goods of a consistent quality and higher technical specifications could be produced on the regular basis.

2. Generating PREPREGS is the most important factor in laminate process. The resin content in the Prepreg is important and it will vary with reference to the application and thickness of the laminates. For 3.2 mm the resin content is different from thin core. The resin flow also equally important. For the categories of High Flow Low resin Content, .Low Flow High Resin Content, .High Flow High Resin Content ,.Low Flow Low resin Content, the different types of Prepregs needs different types of resin mixing and process which is not

being maintained in GPEL like the other countries. Maintaining thickness of the Preprgs is very essential to achieve the proper final thickness of the laminate, which can be provided by only a world class Treater. The Authority is again of the view that the domestic industry has not upgraded technology in this segment too and has not installed suitable modernized equipment for delivery of better quality products on a consistent basis.

3. Pressing: The subject countries have Vacuum Press, which provides Uniform Thickness. The laminates pressed by Hydraulic press without vacuum system will not have uniform thickness as per the stringent requirement of the growing industry and will have lot of air cavity inside. During PCB process the cavity will expand and create problems like measling and delamination. But this problem can be identified only at the final stage of the PCB processing which is dangerous in achieving the productivity. GPEL does not have vacuum system and hence the above quality requirements cannot be achieved. As this is a vital area in the manufacture of the subject goods of a uniform thickness and quality on a consistent basis, the Authority is of the view that the domestic industry has not upgraded its machinery and has not absorbed developments in the technology over the years.
4. It is also observed that the Domestic Industry due to a variety of extraneous reasons has not been able to upgrade its manufacturing facilities. The Authority is of the view that the subject goods is an important input in the manufacture of Printed Circuit Boards, which in turn form an important input in highly sophisticated electronic equipment. It is seen that the quality and the technical specifications of the laminates / boards are critical for the ultimate quality of the end-product. It is also appreciated that the financial implications of a poor quality or defective laminate is enormous due to the very nature of the downstream industry. It was shown to the authority that even though the cost of the laminate is relatively small in the total cost of a populated PCB, it is the financial liability of the laminate/board supplier for the entire cost of the populated PCB and not restricted to the cost of the laminate/board alone. The Authority, therefore, considers that Non-absorption of developments in technology has been a major factor in the injury to the domestic industry.

Conclusions of the Final Findings

23. The Authority after considering the foregoing, concludes that

- i. The subject goods have been exported to India below its normal value resulting in dumping;
- ii. The domestic industry has suffered material injury during the POI;
- iii. However, the Authority has determined that the material injury caused to the domestic industry cannot be attributed to the dumped imports from subject

countries as analysed in paragraphs pertaining to the Injury and causal link. The Authority, therefore, concludes that there is an absence of causal link between the dumping of the subject goods from subject countries and material injury to the domestic industry as the Authority has determined that factors other than dumped imports have caused injury to the domestic industry.

24. It is therefore considered necessary to withdraw the anti-dumping duties recommended provisionally, vide notification No.14/44/2002-DGAD dated 25th June 2003 on imports of copper clad laminates classified under Customs sub heading No. 74102100 being the subject matter of this investigation originated in or exported from China PR, Taiwan, Hong Kong, Singapore, Korea RP, Philippines and Thailand.

25. In view of the above, the Designated Authority recommends withdrawal of the provisional duties in terms of the provisions of Rule 18, sub rule (4). The provisional duties already imposed or collected, if any, shall be refunded.

26. An appeal against this order shall lie before the Customs, Excise & Service Tax Appellate Tribunal in accordance with the Act, supra.

ABHIJIT SENGUPTA
DESIGNATED AUTHORITY