

**To be published in Part-I Section I of the Gazette of India Extraordinary**

**F. No.14/34/2016-DGAD  
Government of India  
Ministry of Commerce & Industry  
Department of Commerce  
Directorate General of Anti- Dumping & Allied Duties  
Jeevan Tara Building, New Delhi-110001**

**Notification  
Final Findings  
(Case No. O.I/08/2017)**

**Dated 13<sup>th</sup> February, 2018**

**Subject: Anti-dumping investigation concerning imports of Veneered Engineered Wooden Flooring originating in or exported from China PR, Malaysia, Indonesia and the European Union.**

**F.No.14/34/2016-DGAD:** Having regard to the Customs Tariff Act, 1975 as amended from time to time (hereinafter referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury Rules thereof, as amended from time to time (hereinafter referred to as the AD rules).

2. Whereas M/s Greenlam Industries Limited (hereinafter also referred to as the Petitioner or Applicant) has filed petition before the Designated Authority (hereinafter also referred to as the Authority) in accordance with the Customs Tariff Act, 1975 as amended from time to time (hereinafter also referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of injury) Rules, 1995 as amended from time to time (hereinafter also referred to as the Rules) for imposition of Anti-dumping duty on imports of "Veneered Engineered Wooden Flooring " (hereinafter also referred to as the subject goods or PUC) from China PR, Malaysia, Indonesia and the European Union (hereinafter also referred to as the subject countries).
3. Whereas, the Authority, on the basis of sufficient evidence submitted by the petitioner, issued a Notification No.14/34/2016-DGAD dated 17<sup>th</sup> February, 2017, published in the Gazette of India, initiating the subject investigation in accordance with the Rule 5 of the above Rules to determine existence, degree and effect of the alleged dumping of the subject goods, originating in or exported from the subject countries, and to recommend the amount of anti-

dumping duty, which, if levied, would be adequate to remove the alleged injury to the domestic industry.

**A. PROCEDURE**

4. The procedure described herein below has been followed with regard to the subject investigation:
  - i. The Designated Authority, under the above Rules, received a written petition from the petitioner on behalf of the domestic industry, alleging dumping of Veneered Engineered Wooden Flooring originating in or exported from the subject countries.
  - ii. Preliminary scrutiny of the application filed revealed certain deficiencies, which were subsequently rectified by the Petitioner. The Petitioner updated the petition, which was considered by the Authority for initiation of investigations. The application was, therefore, considered as duly documented.
  - iii. The Authority on the basis of sufficient evidence submitted by the Petitioner to justify the initiation of the investigation, decided to initiate the investigation against imports of the subject goods from the subject countries.
  - iv. The Authority notified the Embassies of the subject countries in India about the receipt of the application before proceeding to initiate the investigation in accordance with Sub-Rule 5(5) of the AD rules.
  - v. The Authority issued a public notice dated February 17, 2017 published in the Gazette of India, Extraordinary, and initiating anti-dumping investigations concerning imports of the subject goods from the subject countries.
  - vi. The Authority forwarded a copy of the public notice to all known exporters (whose details were made available by the Petitioner) and industry association and gave them opportunity to make their views known in writing in accordance with the Rule 6(2) of the AD Rules.
  - vii. The Authority also forwarded a copy of the public notice to all known importers of the subject goods in India and advised them to make their views in writing within forty days from the date of the letter.
  - viii. The Authority provided a copy of the non-confidential version of application to the known exporters and the Embassies of subject countries in accordance with Rule 6(3) of the AD Rules. A copy of the Application was also provided to other interested parties, wherever requested.
  - ix. The Authority sent questionnaires to elicit relevant information to the following known producers/exporters in the subject countries in accordance with Rule 6(4) of the AD Rules:

SN	Name & Address Of Company	SN	Name & Address Of Company
<b>China PR</b>			
1.	Tomrich International Trading	2.	Nanjing ETAI Trading Co Limited,

	Limited, Shanghai, China PR		Nanjing,China PR
3.	LinyiBaideli International Trade Co Ltd., Shandong, China PR	4.	Linyi Hongfu Timber Co Limited, Shandong,China PR
5.	Wenzhou Timber Group Co. Ltd., Zhejiang,China PR	6.	ShouguangGuihe Economic and Trade Co Limited, Shandong, China PR
7.	Kangton Industry, Inc, Shanghai, China	8.	Guangdong Weihua Holding Co., Ltd., Guangzhou Guangdong, China PR
9.	Linyi Baideli International Trade Co Ltd., Shandong, China PR	10.	Shouguang Wanda Wood Industry Co., Ltd., Shandong, China PR
11.	Yorking Hardwood, Foshan P.R. China	12.	Shuyang New Concept Wood Co., Ltd., Jiangsu, China PR
<b>Malaysia</b>			
13.	Ekowood Malaysia SdnBhd, Kuala Lumpur Malaysia	14.	B.K.B. Hevea Products Sdn. Bhd., Perak, Malaysia.
15.	ME Industries Sdn. Bhd. (140418-P), Selangor, Malaysia	16.	M/s Eco Floor Industries Sdn. Bhd., Shah Alam, Selangor Darul Ehsan, Malaysia
<b>Indonesia</b>			
17.	PT KaryaCiptaUnggul Nusantara, Jakarta Indonesia	18.	PT. Zenith Pratama Indah, Tangerang, Indonesia
19.	PT KeramindoMegah Pertiwi, Tangerang Indonesia	20.	PT Redtroindo Nusantara, Timur Indonesia
21.	PT. GemaGrahaSaranaTbk., Indonesia	22.	PT. Tunggal Nusantara, Indonesia.
23.	PT. Tirta Mahakam Resources, Tbk, Jakarta, Jakarta Raya, Indonesia	24.	Areta, Jakarta Raya, Indonesia.
<b>European Union</b>			
25.	AdmonterEine marke der, Austria	26.	Barlinek, Kielce, Poland
27.	Boen, Hartlebury Trading Estate, Hartlebury DY10 4JB, United Kingdom	28.	Havwoods Limited, Carnforth, Lancashire LA5 9FD
29.	Kahrs, Malmö, Sweden	30.	Listone Giordano , Italia
31.	Parador GMBH & Co. KG, Germany	32.	Parky Decospan NV, Belgium
33.	Pargo, Pergo (Europe) AB, Trelleborg, Sweden	34.	Tilo, Magetsham, Lohnsburg, Austria

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

- (i) Unilin (Malaysia) Sdn. Bhd, Malaysia
- (ii) UNILIN BVBA, Belgium, European Union
- (iii) Fujian Wuyishan Werner Green Industry Co. Ltd., China PR
- (iv) Durafloor Werner GmbH, Germany, European Union
- (v) Jiangsu Senmao Bamboo Wood Industry Co. Ltd., China PR
- (vi) UAB BEON, Lithuania, European Union

- (vii) Tarkett Polska Sp. Z.O.O, Poland, European Union  
(viii) Tarkett, Hongkong

6. Questionnaires were sent to the following known importers/users of subject goods in India calling for necessary information in accordance with Rule 6(4) of the AD Rules:

<b>SN</b>	<b>Name &amp; Address Of Company</b>	<b>SN</b>	<b>Name &amp; Address Of Company</b>
1.	Ply Point, Kozhikode, Kerala	2.	Label Sales Corpn, Cochin, Kerala
3.	Srivari Traders, Metupalayam Tamil Nadu	4.	Krishna Plywoods, Karur, Tamil Nadu
5.	Thamarapally Brothers, Ernakulam Kochi, Kerala	6.	Jacsons Veneers And Panels P.Ltd, Kochi, Kerala
7.	Kalinga Importers & Exporters Pvt. Ltd., Kaloor, Cochin, Kerala	8.	Victory Plywood Distributors, Kannur, Kerala
9.	Mathewsons Exports & Imports P.Ltd, Cochin, Kerala	10.	Feroke Boards Ltd, Malappuram, Kerala
11.	R.J.Metals, Cochin, Kerala	12.	CI Gupta Exports Limited, Moradabad, Uttar Pradesh, India
13.	Venugopala Slate Industries, Andhra Pradesh	14.	Spacewood Furnishers Pvt. Ltd., Hingna Road, Nagpur 44—16
15.	KuttyFlushdoors And Furniture Co. Pvt. Ltd., Chennai – 600107	16.	Association Of Furniture Manufacturers Of India (Afmi) Godrej & Boyce Mfg Co. Ltd, Mumbai 400079
17.	Indian Moulded Panel Shutters Manufacturers Association, New Delhi	18.	Balaji Impex, Masjid Bunder Mumbai – 400009, Maharashtra
19.	Koteshwari Slate Works, Andhra Pradesh	20.	Saikrupa Slate Works, Andhra Pradesh
21.	Vishwamitra Slate Works, Mattam, Cumbum Road, Markapur	22.	Pergo India Pvt Ltd, Greater Kailash-Ii
23.	Notion India Notion Gallery Noida, Noida	24.	Span Floors Pvt Ltd, Greater Kailash Ii, New Delhi, Delhi
25.	FcmI Pvt Ltd, New Delhi, Delhi	26.	Lotus Kaleen Pvt Ltd, Lajpat Nagar Ii , New Delhi, Delhi
27.	Options Unlimited, New Delhi, Delhi 110003	28.	Consolidated Carpets India Ltd, Jasola District Centre, Jasola, New Delhi, Delhi 110017
29.	Times Furnishing, Kolkata, West Bengal 700071	30.	Levana India Pvt Ltd, Alipore Road, Calcutta
31.	Bvg Floors, Sainik Farm, New Delhi, Delhi 110044	32.	Prism Woodworks Pvt Ltd, Mahalaxmi , Mumbai
33.	Ego Floors Pvt Ltd, Bengaluru, Karnataka	34.	Cosmo Floors, Kotturpuram, Chennai-600 085.

7. In response to the initiation notification, the following importers/users have responded and filed importer questionnaire response:
  - i. Exotic Décor Pvt. Ltd. (Exotic),
  - ii. Span Floors Pvt. Ltd.,
  - iii. Lotus Kaleen PVT. Ltd.,
  - iv. Consolidated Carpet Industries Ltd.,
  - v. Options Unlimited,
  - vi. Pergo India Pvt. Ltd.,
  - vii. Classic Flooring & Interiors Pvt. Ltd.
  - viii. Ego Flooring Pvt. Ltd.
  - ix. Inovar Floors India Pvt. Ltd.,
  - x. XYLOS Arteriors India Pvt. Ltd.
  - xi. Prism Woodworks (India) Pvt. Ltd.
  - xii. Symphony International
  - xiii. FCML
  - xiv. Anika Global
8. Apart from the above named importers, the following importers filed post hearing written submissions:
  - (a) Unique Flooring;
  - (b) Opulo India
  - (c) Venimadhav Traders
  - (d) Indiana International Corporation Flooring Pvt Ltd. And
  - (e) Seth Enterprises
9. The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by the interested parties. Submissions made by all interested parties have been taken into account in present investigation.
10. Information provided by interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non confidential version of the information filed on confidential basis.
11. Further information was sought from the Petitioner and other interested parties to the extent deemed necessary.
12. The Designated Authority has also called the information from the interested parties including domestic industry regarding submission of their costing information on PCN basis in order to have fair comparison vide Notification dated July 28, 2017. An extension was also granted till August 18, 2017 to submit the information.

13. Verification of domestic industry was conducted to the extent considered necessary for the purpose of the present investigations.
14. The Non-injurious Price (hereinafter referred to as 'NIP') based on the cost of production and cost to make and sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) has been worked out so as to ascertain whether Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to the Domestic Industry.
15. Spot verification was carried out at the premises of the following producers/exporters in the subject countries:
  - (a) Unilin (Malaysia) Sdn. Bhd, Malaysia
  - (b) UNILIN BVBA, Belgium, European Union
  - (c) Fujian Wuyishan Werner Green Industry Co. Ltd., China PR
  - (d) Durafloor Werner GmbH, Germany, European Union
  - (e) Jiangsu Senmao Bamboo Wood Industry Co. Ltd., China PR
  - (f) UAB BEON, Lithuania, European Union
  - (g) Tarkett Polska Sp. Z.O.O, Poland, European Union
  - (h) Tarkett, Hongkong
16. Investigation was carried out for the period starting from October, 2015 to September, 2016 (12 months) (hereinafter referred to as the 'period of investigation' or the 'POI'). The examination of trends, in the context of injury analysis, covered the period from 2013-14, 2014-15, 2015-16 and the POI.
17. In accordance with Rule 6(6) of the Anti-Dumping Rules, the Authority provided opportunity to the interested parties to present their views orally in hearing held on November 28, 2017. Subsequently all the parties who had attended the oral hearing were advised 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 were advised to offer their rebuttals.
18. Request was made to the Director General of Commercial Intelligence and Statistics (DGCI&S) to provide the details of imports of subject goods for the past three years, including period of investigation, which was received by the Authority. The Authority has referenced the DGCI&S imports data for computation of the volume and value of imports and injury analysis.
19. During the course of investigation, it was found that the imports from Malaysia was undumped, therefore, the Authority has excluded the volume of imports from Malaysia while calculating its share in total imports from subject countries. In view of undumped imports from Malaysia, the Authority terminates the investigation against Malaysia. In view of this, the volume of imports from Malaysia has not been taken for the purpose of dumping and injury analysis. Therefore, in this investigation China PR, Indonesia and European Union now constitute as subject countries.

20. Based on the examination of comments on disclosure statement by the interested parties, the product under consideration has been construed as “*Veneered Engineered Wooden Flooring typically has three layers of wood viz “Top Layer”, “Middle Layer” and “Bottom Layer”. Top Layer is real wood which gives attractive look (owing to its wooden texture) and additional strength to overall construction. It can be made of one strip of wood, two strips of wood or three strips of Wood. Middle Layer which forms core of the overall construction and it can be made of “fibre board (MDF/HDF)”. Bottom Layer is real wood which provides support to the overall construction. The PUC can however be of two or three layers also*”. Accordingly, volume of imports from subject countries has been considered for determination of both dumping and injury analysis in these findings.
21. The submissions made by the interested parties to the extent considered relevant by the Authority have been addressed in this final finding.
22. Exporters, producers and other interested parties who have neither responded to the Authority, nor supplied information relevant to this investigation have been treated as non-cooperative.
23. \*\*\*in this Final Finding represents information furnished by an interested party on confidential basis, and so considered by the Authority under the Rules.
24. Exchange rate for conversion of US\$ to RS is considered for the POI as Rs. 67.50 as per customs data.

## **B. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE**

### **Submissions by the Domestic Industry**

25. The submissions made by domestic industry are as follows:
- i. The product under consideration in the present petition is veneered engineered wooden flooring, excluding laminated flooring, flooring not made of wood, flooring not having veneered top layer and solid wood flooring.
  - ii. Wooden flooring typically has three layers of wood viz “Top Layer”, “Middle Layer” and “Bottom Layer” - (a) Top Layer is real wood which gives attractive look (owing to its wooden texture) and additional strength to overall construction. It can be made of 1 Strip of wood, 2 Strips of Wood or 3 Strips of Wood; (b) Middle Layer is real wood, which forms core of the overall construction. It can be made of either “solid wood” or “fibre board” and (c) Bottom Layer is real wood which provides support to the overall construction
  - iii. The top layer is always a veneer, of 1/2/3 strips. The middle and bottom layer can either be natural/real wood or engineered wood, such as solid wood, fibre board (including MDF or HDF), pine, plywood, rubber wood or bamboo.
  - iv. However, the PUC can be produced and sold as two layer product as well and there can be inlay work on the PUC. However, there were no imports of products containing description “inlay works”. Further, 2 & 3 layer accounts for 98% of the imports.

- v. Veneered engineered wooden flooring is a real wood product. The top layer of wood called the veneer ranges from 0.6 mm to 6 mm thickness. However, the most popular thickness ranges from 0.6mm to 3mm which accounts for 93% of the total imports.
- vi. Overall board thickness ranges from 8 mm to 25 mm while the most popular thickness is 10 mm to 15 mm, which accounts for about 85% of the imports. Due to its multiply structure the engineered wooden flooring is more suitable than solid wood and is less susceptible to shrinking and expanding with changes in temperature and humidity.
- vii. The product concerned consists of two or more layers of wood adhered together to form a plank. It usually uses a thin layer (lamella) of a more expensive hardwood bonded to a core constructed from cheaper wood, HDF or Plywood.
- viii. The most frequently used dimension for width and length of the PUC are 200mm to 210 mm and 1000mm to 2420 mm respectively. However, the length in general may vary from 490mm to 2500.
- ix. Length upto 2420 accounts de-facto accounts of entirety of imports and 100-210 width accounts for 92 % of the imports.
- x. Laminate flooring which is excluded from the scope of the PUC, is a multi-layer synthetic flooring product fused together with a lamination process.
- xi. Hardwood flooring (solid wood floorings), which is also beyond the scope of the PUC, is made of planks milled from a single piece of timber. These floors have a thick wear surface.
- xii. Flooring which are not made of wood are excluded from the scope of PUC. Typically, flooring made of stones (natural/engineered), concrete, tiles, resilient floors such vinyl's, linoleum rubber, polymer, soft floors - carpets, rugs, high pressure laminate, compact laminate and glass are not considered as wooden floors.
- xiii. Flooring which do not have veneer as the top layer are beyond the scope of the PUC for the purpose of present investigations.
- xiv. As regards the contention of one of the interested parties regarding exclusion of (a) engineered Wooden Flooring having plywood as its base and (b) Veneered Engineered Wooden Flooring having real wood as the core (or middle layer) and not fibre board, the domestic industry submitted that it produces the subject goods having plywood as its base. The Middle layer of the product concerned can also be of Solid Wood, Fibre board (including MDF and HDF), Pine, Plywood, Rubber Wood, bamboo, etc
- xv. Since it's a new producer of the subject goods, it would not have produced all the product types. The petitioner has focused its production on those types of the PUC which command majority of the market demand, considering that the petitioner is not able to establish itself fully even in these types. Demand for the PUC types not sold by the petitioner is only because of market demand for the petitioner' product and low market for these types.
- xvi. The domestic industry has produced the samples of the product concerned having inlay work.
- xvii. The domestic industry has produced the products having width exceeding 180mm, length exceeding 2100mm and thickness exceeding 14mm, in the period of investigation. The relevant evidences were placed on record.

- xviii. The petitioner has already produced the following product types for which the petitioner has not received any market demand and therefore has not been able to sell these types in the market for want of demand. Relevant documentary evidences of production have been provided by the petitioner:
- a) 4mm Top layer, Pine wood- Middle Layer 15 x 135 x 2100mm
  - b) 5mm Top layer, Pine wood- Middle Layer 16 x 135 x 2100mm
  - c) 3mm Top layer, Ply wood- Middle Layer 14 x 135 x 2100mm
  - d) 3mm Top layer, Pine wood- Middle Layer 15 x 300 x 2400mm
  - e) 6mm Top layer, Pine wood- Middle Layer 18 x 135 x 2400mm
  - f) 6mm Top layer, Ply wood- Middle Layer 18 x 135 x 2400mm
  - g) 6mm Top layer, Pine wood- Middle Layer 24 x 135 x 2400mm
  - h) 6mm Top layer, Ply wood- Middle Layer 24 x 135 x 2400mm
  - i) Design/inlay parquet 13 x 380 x 380mm
- xix. The domestic industry has submitted that though the subject goods are produced and sold in certain standard sizes but can be produced as per the requirement of customer and that the petitioner has so far produced product types which constitute almost 70-80% of the demand for the product in the country. Considering the nature of the product, it is obvious that there are certain standard “running” sizes and sometimes the consumers require specific types. Specific types are produced on the basis of demand.
- xx. The Designated Authority is requested to resort to sampling of product types in view of large number of product types involved. Considering various thickness of the product, veneer thickness, length, width, veneer type, there are a very large types of the PUC. However, select few types listed below command majority demand for the PUC

	Popular/most frequently used dimension	
	Minimum	Maximum
Thickness of flooring	10	15
Thickness of top layer	0.6	3
Width	100	210
Length	1000	2420
Number of Layer	2	3

- xxi. Greenlam can produce the top layer from any variety of wood and can be of any thickness required in the market.
- xxii. It is not necessary that the petitioner provides an exhaustive account of all product types in its catalogues or websites. Catalogues or websites merely represents popular product range.
- xxiii. As regards the contention of one of the interested parties regarding bundling of veneers and parquet, the domestic industry submitted that no verifiable information has been provided to establish that the alleged difference means difference in cost of production to the extent that the same cannot be put under one category. The same has been done justifiably and therefore, are segregated on PCN basis.
- xxiv. The main function of the subject goods is to provide covering to a floor or over a surface of any other material which resembles or gives the impression

of wood, etc. Typical applications of the goods concerned are in houses, offices, conference halls, malls, showrooms, indoor stadiums, hospitals, department stores, public buildings, hotels, boutiques and restaurants.

- xxv. As regards the contention of one of the interested parties that the production process employed by the applicant is different than that by parquet industry, the domestic industry submitted that there is no merit in the argument and it is exactly the same. Nevertheless, the petitioner has various certifications required for running the plant and manufacturing PUC viz FSC Certificate, ISO 14001, PEFC, ISO 9001 and OHSAS 18001:2007. The petitioner's product meets the European Union standards by doing in house testing.
- xxvi. As regards the contention of one the interested parties that the petitioner only assembles the constituents and prepares the end product, the domestic industry submitted that the product concerned is made by pressing a veneer layer on top of the core at temperature of 100-110 Degree C and at a specific pressure of around 10-20kg/m<sup>2</sup>. The layered plank is then cut to size as per the required length and width. The planks so produced then go through calibrating sanding and profiled in T&G or Click and Lock profile and then coated with UV lacquers for giving a long lasting finish and surface resistance properties like abrasion resistance, scratch resistance and impact resistance. The coated planks are then packed in corrugated boxes and then shrink wrapped and then shipped out to the customer as per the requirement.
- xxvii. There is no known difference in subject goods produced by the domestic industry and subject goods imported into India. Veneered engineered wooden flooring produced by the domestic industry and imported into India are comparable in terms of characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers are using the two interchangeably.
- xxviii. Subject goods are classified under Chapter 44 of Customs Tariff Act, 1975 under sub-heading 44091010 and 44092990. However, the subject goods are also being imported under the following Customs Classification Codes: 44091090, 44092100, 44092910, 44129990, 44111300, 44111400, 44119219, 44119229, 44121000, 44123210, 44123290, 44129910, 44092990, 44182090, 44187100, 44187200, 44187900, 44189000, 44219070, 44219090. The customs classification is indicative only and is in no way binding on the scope of the proposed investigations. The product description shall prevail in all circumstances.

### **Submissions made by the other interested parties**

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

- (i) The price of product concerned varies depending on factors like manufacturing process, quality of wood, processing, designing, thickness and finishing etc.

- (ii) Veneers (below 2.5mm top layer) and Parquet (above 2.5 mm top layer) are commercially different and cannot be bundled as has been done by the petitioner
- (iii) Petitioner is generalizing everything as veneer engineered planks and has only 3 collections of plank: Abror, Pristine and Atmos whereas industry product line includes planks, patterns, herringbone, outdoor wood, Chevron, inlays, etc.
- (iv) The core of the imported product is birch wood or 7-9 mm of ply pasted together and that of petitioner is Medium Density Fibre Board or pine.
- (v) The bottom lawyer of imported products is Birch or fir and that of petitioner is normal ply or MDF.
- (vi) The production process of the petitioner is completely different from that by parquet industry.
- (vii) The Petitioner has limited certificates as compared to the others, which impacts the quality and also the price. Therefore, bundling of Veneers and Parquets is unfair.
- (viii) According to methodology used to compile import data used by the petitioner, it has itself sought the product exclusion for (a) engineered Wooden Flooring having plywood as its base and (b) Veneered Engineered Wooden Flooring having real wood as the core (or middle layer) and not fibre board should be appropriately reflected in the Final Findings.
- (ix) The designed products which need specific machinery (inlay products), products having width exceeding 180mm, length exceeding 2100mm and thickness exceeding 14mm should also be excluded from the purview of present investigations as such products are not manufactured by the domestic industry or were not manufactured by them during the POI.
- (x) The products actually manufactured and what is purportedly claimed to be manufactured by the petitioner is completely different. It manufactures the product only in a particular size, style and dimension as per its catalogue.
- (xi) The goods are heterogeneous in nature and are available to end users in different sizes, dimensions, texture and constituent material used.
- (xii) The top layer can be made from any variety of wood and can be of any thickness but this cannot be provided by the petitioner.
- (xiii) The thickness of the top layer/ Veneer layer in the subject good manufactured by the Petitioner is either 3 mm and/or 0.6 mm, whereas that of imported products could possibly be of any thickness.
- (xiv) The subject goods imported are of unique specifications such as the thickness of the top layer could be from 2mm to 6mm, etc, or the complete thickness of the subject goods could be anywhere between 10 to 24 mm, width ranging between 75 mm to 300 mm along with different lengths, and such specifications cannot be provided by the Petitioner.
- (xv) Petitioner uses only Pine core and HDF as its middle layer and by not using multilayer ply. The imported goods are of various other varieties of wood.
- (xvi) The subject goods imported and the ones being manufactured by the petitioner are different and do not fall within the scope of like products.
- (xvii) Process entailed by the petitioner is one whereby it only assembles the constituents and prepares the end product.

- (xviii) The Domestic Industry is maliciously trying to increase the scope of the Product under Consideration. It is submitted that the scope of the Product under Consideration is decided by the Authority at the time of initiation on the basis of the written application filed by the Domestic Industry.

### **Examination by the Authority**

27. The product under consideration is "Veneered engineered wooden flooring" excluding following kind of floorings:
- laminated flooring,
  - flooring not made of wood,
  - flooring not having veneered top layer,
  - solid wood flooring
28. Veneered Engineered Wooden Flooring typically has three layers of wood viz "Top Layer", "Middle Layer" and "Bottom Layer". Top Layer is real wood which gives attractive look (owing to its wooden texture) and additional strength to overall construction. It can be made of one strip of wood, two strips of wood or three strips of Wood. Middle Layer is real wood, which forms core of the overall construction. It can be made of either "solid wood" or "fibre board (MDF/HDF)". Bottom Layer is real wood which provides support to the overall construction. The PUC can however be of two or three layers also.
29. Veneered engineered wooden flooring is a wood product. The top layer of wood called the veneer ranges from 0.5 mm to 6 mm thickness. Overall board thickness ranges from 8 mm to 25 mm. Due to its multiply structure the engineered wooden flooring is more suitable than solid wood and is less susceptible to shrinking and expanding with changes in temperature and humidity.
30. The PUC is normally produced and sold in certain standard sizes and specifications. It can, however, be produced in different sizes to meet the requirements of customer. Different product types can be categorized on the basis of different sizes (veneer thickness, board thickness, length, width) and specifications of the wood (pine, oak, teak, walnut etc).
31. As regards the contention of the interested parties regarding exclusion of products having inlay work, the Authority notes that import data does not specifically show import of this type of product. Petitioner is a new producer of the PUC in the Country and is establishing itself in the market. Domestic Industry, being a new industry, do not produce each and every kind of product falling within the veneered engineered wooden flooring rather producing the product having its demand.
32. As regards the contention of the interested parties regarding exclusion of the products having width exceeding 180mm, length exceeding 2100mm and thickness exceeding 14mm, the Authority notes that the domestic industry has produced these products in the period of investigation and has the technology to produce all required size based on the demand and customer's requirement. Since, this being the customized product, the producer is in a position to undertake all kind of sizes along with thickness and breadth based on the emerging demand of the product. Based on the examination of issues raised by the interested parties, it is noticed that the exclusion as such by sizes alone may not be justified and appropriate in view of the petitioner being the new producer and in a position to undertake production of any kind of wooden flooring since

the technology being used by the domestic industry is similar to that of the foreign producers. It is further noted that none of the interested party could otherwise substantiate with facts regarding the exclusion sought, apart from the exclusion which the authority has otherwise undertaken at the time of initiating this anti-dumping investigation.

33. The Authority notes that there exists no reason and evidence to believe that the subject product with different dimensions cannot be produced by the domestic industry with its existing facilities if there is a requirement to produce the product with different dimensions. No additional manufacturing facilities are required to be added within the existing facilities to produce products with different variety of woods and dimensions. The Authority further notes that the current manufacturing status of the domestic industry does not demonstrate that the domestic industry is not commercially capable to produce the subject goods with different dimensions or variety of wood. The product can be tailor made as per the requirement of the market and the domestic industry is capable of supplying subject products in future when there are orders for the same and also fair play is established. The product manufactured by the petitioner constitutes like article to the subject goods being imported into India from the subject countries.

34. It is pertinent to note that under the law, the domestic industry is required to produce and sell like article to the imported product. As per Rule 2(d) of the Rules a product which has characteristics closely resembling those of the articles under investigation form part of “like article”. Absence of identical article from the domestic industry does not ipso facto mean that the said type should be excluded from the scope of the PUC.

35. In view of the heterogeneity of the product, the authority notes that the PUC is a “Veneered engineered wooden flooring” and is a flooring whose top layer is a veneer or wood and the middle layer can be either of natural wood or engineered wood (HDF/MDF). Further, depending upon consumer requirements, it can be produced in varied veneer, thickness (of board or veneer), length, width, etc. These differences in different types of the PUC, however, do not render the PUC as such a heterogeneous product that the same are classified as dislike product. However, considering that the different types having different costs and resultantly prices, the Authority devised a PCN system, which was notified to all interested parties vide communication dated July 28, 2017. During the course of investigation the authority segregated the PUC in different types based on following PCN system to ensure fair comparison for the purpose of the determination of dumping and injury analysis.

Parameter		PCN Digit	Explanation		
<b>1) Thickness Board</b>		XXX	Thickness of board used For each thickness, actual thickness can be used in PCN.		
SN	Thickness	Code	SN	Thickness	Code
1	8.00	080	17	14.20	142
2	9.00	090	18	14.50	145
3	9.50	095	19	15.00	150
4	9.80	098	20	16.00	160
5	10.00	100	21	17.00	170

6	10.20	102	22	17.50	175
7	10.50	105	23	18.00	180
8	10.60	106	24	19.00	190
9	11.00	110	25	19.50	195
10	11.50	115	26	20.00	200
11	12.00	120	27	20.50	205
12	12.50	125	28	21.00	210
13	12.70	127	29	22.00	220
14	13.00	130	30	22.50	225
15	13.50	135	31	24.00	240
16	14.00	140	32	25.00	250

2. Wood (Species)		XX	Type of wood/species used For each type of wood, unique two words would be used to define.		
SN	Wood Types	Code	SN	Wood Types	Code
1	Oak	OK	25	Allegro	AL
2	Walnut	WA	26	Cherry	CH
3	Bamboo	BO	27	Black	BL
4	Kayu Kuku	KK	28	Ebony	EB
5	Teak	TK	29	Elm	EL
6	Maple	MA	30	Hamberger	HA
7	Merbau	ME	31	Hickory	HI
8	Jatoba	JA	32	Jarrah	JH
9	Beech	BE	33	Jupiter	JU
10	Sapele	SA	34	Kosso	KO
11	Composite	CO	35	Lapacho	LO
12	Acacia	AC	36	Larch	LA
13	Sucupira	SU	37	Monpar	MO
14	Beech Sylvaket	BS	38	Musterfacher	MU
15	Hevea	HE	39	Parquet	PA
16	Ash	AS	40	Pine	PI
17	Doussie	DO	41	Red Beech	RB
18	Mahogany	MG	42	Rosewood	RW
19	Iroko	IR	43	Santos	SN
20	Herringbone	HB	44	Saw White	SW
21	Birch	BI	45	Terra	TE
22	Antique Carpathians	AN	46	Tiger Wood	TW
23	Wenge	WE	47	Unica	UN
24	Smoked	SM	48	Others(pls specify)	OT

36. While Authority deliberating on the PUC, notes that the product under consideration in this investigation is Veneered engineered wooden flooring and the following are beyond the scope of the PUC,

- (i) Laminated or laminate flooring whose top layer are neither veneer nor wood.
- (ii) Flooring which does not contain wood in any form and which also have a material other than wood.
- (iii) Flooring not having veneered or bamboo or decorative inlays as top layer are also beyond the scope of the PUC. Decorative inlays are done on the veneers, and therefore flooring with decorative inlays on veneer are within the scope of the PUC. However, floorings with decorative inlays on a product other than veneer are beyond the scope of the PUC.
- (iv) Single block/layer solid wood flooring does not have veneer at its top, thus, such floorings are beyond the scope of the PUC.

37. Based on the examination of comments on disclosure statement by the interested parties, the product under consideration has now been construed as “*Veneered Engineered Wooden Flooring typically has three layers of wood viz "Top Layer", "Middle Layer" and "Bottom Layer". Top Layer is real wood which gives attractive look (owing to its wooden texture) and additional strength to overall construction. It can be made of one strip of wood, two strips of wood or three strips of Wood. Middle Layer which forms core of the overall construction and it can be made of "fibre board (MDF/HDF)". Bottom Layer is real wood which provides support to the overall construction. The PUC can however be of two or three layers also*”. Accordingly, volume of imports from subject countries has been considered for determination of both dumping and injury analysis in these findings.

### **C. SCOPE OF DOMESTIC INDUSTRY & STANDING**

38. Rule 2 (b) of the AD rules defines domestic industry as under:

*“(b) “domestic industry” means the domestic producers as a whole engaged in the manufacture of the like article and any activity connected therewith or those whose collective output of the said article constitutes a major proportion of the total domestic production of that article except when such producers are related to the exporters or importers of the alleged dumped article or are themselves importers thereof in such case the term ‘domestic industry’ may be construed as referring to the rest of the producers”.*

39. The application was filed by Greenlam Industries Limited who is the sole producer of the subject goods in the Country.

### **Submissions by the Domestic Industries**

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

- i. The petitioner is the sole producer of the subject goods in India, therefore, the petitioner alone constitutes a major proportion of Indian production of the subject goods in terms of rules.

- ii. The petitioner has imported insignificant quantities of the product concerned from Sweden which amounts to 0.33% of total imports of the product entering India, 0.27% of demand in India, 0.37% of capacity of the petitioner (one shift) and 1.76% of production.
- iii. The Petitioner is not related to any exporter or producer of the product under consideration from the subject countries.
- iv. The petitioner has sufficient standing and constitutes domestic industry within the meaning of the Rules.

### **Submissions made by the other interested parties**

41. The submissions made by opposing interested parties are as follows:

- i. The petitioner, being an importer from Sweden, cannot be considered as domestic industry.

### **Examination by the Authority**

42. The present application was filed by M/s Greenlam Industries Ltd., the only domestic producer of the product under consideration and provided detailed information in the anti-dumping investigation. The Authority determined at the stage of initiation that the petitioner, the sole producer of the subject good, satisfies requirement of standing under the Rules and the Petitioner constituted domestic industry within the meaning of the Rules.

43. As regards the import being made by the Domestic Industry, the Authority notes that the contention of the interested parties, is devoid of any merit as the imports effected by the Applicant were to the extent of 1229 SQM is insignificant vis a vis the market size of 461,459 SQM.

44. The production of the petitioner alone constitutes 100% of Indian production. Accordingly, after careful examination of the legal provisions and facts of the case, the Authority, holds that the applicant constitutes eligible domestic industry within the meaning of Rule 2 (b) of the Anti-Dumping Rules and the application satisfies the criteria of standing in terms of Rule 5 (3) of the Rules supra.

## **D. ISSUES RELATING TO CONFIDENTIALITY**

### **Submissions by the Domestic Industries**

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

- i. The petitioner has claimed only such information as confidential, the confidentiality of which has been permitted under the rules and as per consistent practice of the Authority.

- ii. The petitioner has provided non confidential version of the application in sufficient detail. No interested party has been able to point out any specific instance of information which has been claimed confidential and confidentiality of which is not justified under the rules.
- iii. Information such as the project report is highly business sensitive document and cannot be disclosed to the parties.
- iv. None of the exporters has provided the non-confidential version which is an exact replica of their confidential version. They have kept all the volume related information confidential. They have also not provided any statement of claim of confidentiality. Further, the responses are in violation of the specific guidelines issued by the Designated Authority with regard to the procedure to be followed for filing of non-confidential version of the exporter's questionnaire responses. Therefore, the submissions of all the exporters and producers from the subject countries should be disregarded and deny them the individual treatment.

#### **Submissions made by the other interested parties**

46. The various submissions made by the producers/exporters/importers/other interested parties during the course of the present investigation with regard to confidentiality and considered relevant by the Authority are as follows:
- i. Feasibility study has been kept confidential which serves as basis for the establishment of the domestic industry as material retardation has been claimed.
  - ii. The Petitioner has claimed excessive confidentiality and filed incomplete petition. In response to Section-VI (Costing Information) of the Application the Petitioner has not furnished any information at all.

#### **Examination by the Authority**

47. The Authority made available non confidential version of the information provided by various interested parties to all interested parties through the public file containing non-confidential version of evidences submitted by various interested parties for inspection as per Rule 6(7).
48. The various submissions made by the interested parties during the course of the present investigation with regard to confidentiality and considered relevant by the Authority, were examined. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis was directed to provide sufficient non confidential version of the information filed on confidential basis. The Authority made available the non-confidential version of the evidences submitted by various interested parties in the form of public file.

49. The interested parties have raised arguments with regard to confidentiality of information. The Authority notes that the confidentiality claims of the interested parties are consistent with the practice being generally followed by the Authority. Wherever possible, the interested parties have provided non confidential version of the information.

## **E. MISCELLANEOUS ISSUES**

### **Submissions by the Domestic Industry**

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

- i. Claims of the European and Indonesian Embassy should be disregarded as they have failed to participate in the present investigation within the time limits prescribed and have made a presence in the present investigations for the first time in oral hearing which is after 285 days of initiation of the present investigation.
- ii. Anti-dumping measures don't result in giving monopoly to the sole producer in the importing country rather it tries to curb a foreign unfair trade practice. The imports from other suppliers including those from the subject countries are not prevented from competing in the Indian market. It established fair competition in the market.
- iii. There is no demand and supply gap in India. The petitioner holds a capacity of 1 million sqm. as against established Indian demand so far in the region of 0.5 million sqm.
- iv. The Authority should not accept responses of Chinese and Malaysian exporters and producers as they have failed to discharge their obligation by providing correct and certified information. The respondents have conveniently omitted to provide any information as to the incentives in the form of subsidy received by them by their respective governments which are amongst one of the major reason for low priced imports
- v. Quality of subject goods of Domestic Industry is at par with any of the goods imported into India. In any case none of the parties concerned has substantiated their claim with evidences; therefore, the Authority should not accept these baseless claims.
- vi. It is incorrect to state that consumers do not bother about the price of like articles before taking decision to either import or purchase from domestic industry.
- vii. One of the respondents i.e. Durafloor Werner GmbH from Germany claims itself to be an exporter. However, from its website, it seems that it is a manufacturer of the PUC also. Thus, the response should be rejected.
- viii. There is no mandatory requirement under the law for the adoption of DGCI&S data for the purpose of filing petition. The Authority may adopt DGCI&S data for the purpose of its finding in the anti-dumping investigation.
- ix. The petitioner has provided all relevant information, including the project report, and the Authority has found it appropriate to initiate the investigations.

- x. Regarding the segregated data, the petitioner has already submitted a soft copy of the non-confidential version of the petition, which contained transaction wise data of import of subject goods.
- xi. In the present case, since the petitioner is the new producer, it would gradually produce most of the products related with the product under consideration, in the process of establishing itself.

### **Submissions made by the other interested parties**

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

- i. Contention of the petitioner regarding rejection of submission of EU commission is baseless and devoid of any legal or factual merit. The time limit is to file questionnaire responses by the producers/exporters and not to make other submissions, for that matter by embassies. Reliance is placed upon Rule 6 of the Rules, Article 6.2 of the Anti-Dumping Agreement, finding in the anti-dumping investigation concerning Linear Alkyl Benzene' originating in or exported from Iran, Qatar and China PR.
- ii. The contention of the Domestic Industry that exporters who had participated in the investigation only accounts for 10% of the total exports and therefore, their data should be rejected considering them inadequate, is against all logic and without any legal backing.
- iii. The petitioner is trying to create monopoly, on the products it doesn't even manufacture and to prevent consequent rise of good competition in the market.
- iv. The domestic industry has not substantiated its claims regarding non-disclosure of benefits by Malaysian / Chinese exporters / producers. Assuming but not accepting, if the respondents are getting benefits, the domestic industry should file an application for anti-subsidy application.
- v. DGAD is not relying on IBIS data in all its proceedings and hence the Domestic Industry may please be asked to revise their application as per DGCI&S import data.
- vi. Petitioner has made false statements to initiate the proceedings. There is no dumping of PUC and hence, the present proceedings are without jurisdiction. As enshrined in Rule 5, the present initiation has not passed both the necessary conditions i.e. accuracy, adequacy and sufficiency of evidence. Thus, the present proceedings are not maintainable.
- vii. The Authority may kindly direct the petitioner to provide the soft copy of the data as received from the source and the segregated data.
- viii. In its submission of 21 April 2017, the Commission had already identified several significant shortcomings in the initiation of the case, which are again confirmed. The Commission requests the investigating authorities to perform an in-depth analysis of the assumptions and forecasts therein. An in-depth analysis is also necessary to assess the impact of other factors on the situation of the domestic industry as well as its current position of "monopoly" in the Indian market.
- ix. Seeking a blanket anti-dumping duty over the subject goods appears to be a tactic entailed by the petitioner to gain control over the market and oust all competition.

- x. Even if the domestic industry captures 100% market share in Indian demand, it would not be able to achieve more than 45% of their capacity utilization.

### **Examination by the Authority**

52. The submissions made by the interested parties and considered relevant, are addressed by the Authority as below:

- i. As regards the monopoly issues, the authority notes that anti-dumping duty is to ensure fair trade and provide a level-playing field to the domestic industry. It is neither a measure to restrict import nor to cause an unjustified increase in cost of products. The Authority notes that the purpose of anti-dumping duty is not to give protection to the domestic industry rather to provide level playing field and plug the injurious effect if any due to dumping.
- ii. With regard to demand and supply gap issues, the Authority notes that there is no such gap since the domestic industry has sufficient capacity available with them. Further, the anti-dumping measures don't prohibit imports rather it ensures level playing field and to bring fair competition in the market
- iii. In relation to the allegation of the Domestic Industry that Chinese and Malaysian Authorities are giving subsidy to the producers / exporters of the subject goods, it is noted that in this present investigation, the dumping effects which may lead to the injury to the domestic industry has been examined based on the petition filed By the domestic industry. However domestic industry may file separate application to address the subsidy causing injury, if any from these sources.
- iv. In relation to issues relating to quality, it is noted that quality *per-se* is not an issue in the anti-dumping investigations. It is also noted that they have a strong customer base in India, establishing that their goods are at par with the imported goods. In any case, none of the interested party has provided any material evidence to substantiate their claim that the quality of Domestic Industry is not good or acceptable.
- v. With regard to issue of suppression of facts by Durafloor, the Authority notes that during the course of verification, only the verified information has been taken on board in this investigation.
- vi. It is noted that during the course of investigation, the Authority has relied on transaction wise import data from DGCI&S and the same have been considered in this investigation.
- vii. As regards the allegation that initiation is on wrong premise, the Authority notes that the initiation is done on the basis of prima facie evidences/facts provided by the Domestic Industry. Subsequently, the verified information were considered for proceeding in this AD investigation.

### **F. DETERMINATION OF NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN**

53. The Authority sent questionnaires to the known exporters from the subject countries, advising them to provide information in the form and manner

prescribed. The following producers and exporters from the subject country filed the prescribed questionnaire responses.

- i. Unilin (Malaysia) Sdn. Bhd, Malaysia
- ii. Fujian Wuyishan Werner Green Industry Co. Ltd., China PR
- iii. Jiangsu Senmao Bamboo Wood Industry Co. Ltd., China PR
- iv. UAB BEON, Lithuania, European Union
- v. Tarkett Polska Sp. Z.O.O, Poland, European Union
- vi. UNILIN BVBA, Belgium, European Union
- vii. Duraflor Werner GmbH, Germany, European Union
- viii. Tarkett, Hongkong

### **Views of the Domestic Industry**

54. The following are the submissions made by the domestic industry during the course of the present investigation and considered relevant by the Authority:

- i. Market economy status cannot be granted unless the responding exporters satisfy each & every of the following conditions:
  - a) Market economy status cannot be given in a situation where one of the major shareholders is a State owned/controlled entity
  - b) Market economy status cannot be given unless the responding Chinese exporters establish that the prices of major inputs substantially reflect market values.
  - c) Market economy treatment must be rejected in such situations where Chinese exporters are unable to establish that their books are consistent with International Accounting Standards (IAS). The requirement on insisting compliance with International Accounting Standards is to ensure accuracy and adequacy of revenues and expenses, assets and liabilities expressed in the annual report.
  - d) Market economy status cannot be granted unless the responding Chinese exporters pass the test in respect of each and every parameter laid down under the rules. While one parameter is sufficient to establish existence of injury, failure to pass one single parameter is sufficient to reject the claim of market economy status.
  - e) It is not for the Authority to establish that the responding companies are operating under market economy environment and are entitled for market economy treatment. But it is for the responding Chinese exporters to establish that they are operating under market economy conditions.
  - f) Market economy status cannot be granted unless the responding company and its group as a whole make the claim. If one or more

companies forming part of the group have not filed the response, market economy status must be rejected.

- g) In a situation where the current shareholders have not set up their production facilities themselves but have acquired the same from some other party, market economy status cannot be granted unless process of transformation has been completely established through documentary evidence.
- ii. It has been submitted that the normal value for China in such a case can be determined only in accordance with the provisions of para 7 of the Annexure I to Anti-dumping Rules in view of the aforementioned facts and circumstances.
- iii. The domestic industry was not in a position to get any documentary evidence or reliable information with regard to domestic prices in China nor was the same available in the public domain. The applicant, therefore, only for the purpose of initiation, constructed the normal value for China after following the principles of conservatism and as per the practice of the DGAD.
- iv. The normal value in China can thus be determined on the basis of (a) import price from third country into India, (b) selling price in India, and (c) cost of production in India, duly adjusted, including selling, general and administrative expenses and profit. It is also submitted that since these options for determination of normal value are available, the Designated Authority may not kindly consider "any other basis" because this is required to be applied only when other basis listed under the law cannot be applied.
- v. The normal value has been constructed for China PR. The domestic industry costs have been taken to construct normal value and reasonable profit margin has been considered. Given that the Petitioner is operating its plant at very low level, the Petitioner has considered consumption norms for raw materials & utilities as per projections.
- vi. Efforts were also made to find out the normal value in EU, Indonesia and Malaysia. However, for lack of information, the normal value has been constructed for all exporters/producers from each of the subject countries based on raw material prices and consumption norms of the domestic industry, Power rate of respective subject country, optimum conversion costs, selling, general & administrative expenses of domestic industry and reasonable profit margin.
- vii. The petitioner has made submissions and claims on normal value as per the best available information available to it. The Authority may appropriately adopt the methodology to determine normal value.
- viii. The Chinese producers should be treated as companies operating under non-market economy environment and normal value determined on the basis of Para 7 of Annexure-I till such time the investigation period includes the period upto Dec., 2016 as the important parameters and factors considered in an antidumping investigation such as, dumping margin, injury margin, de-minimis volume, etc pertains to the period of investigation.

- ix. All interested parties had sufficient opportunity to assist the authority in providing relevant facts. None of the exporters/producers have filed the market economy treatment questionnaire issued by the Authority.
- x. One of the related producers of Unilin BVBA, Belgium i.e. Unilin SRO Czech Republic who is also a producer of the subject goods in European Union has not participated in the present investigations. Thus, the response of Unilin, Belgium and Unilin, Malaysia should be rejected.
- xi. One of the respondent i.e. Durafloor Werner GmbH from Germany claims itself to be an exporter. However, from its website, it seems that it is a manufacturer of the PUC also. Relevant evidence are placed on record. The exporters had intentionally withheld the information from the Authority only with malafide intention to impede the investigation.
- xii. The export price is constructed based on the information available from the import data after making due adjustment based on the best available information with the industry to make it comparable with normal value.

#### **Views of other interested parties**

55. The submissions made by the opposing interested parties are as follows:
- i. The normal price is available readily by making trade enquiries. One such sample is put on record by FCML along with certain letters from foreign suppliers.
  - ii. Applicant, himself being an importer and having offices in different countries is very well aware of the normal price but has not put them on record in order to fall back on artificially constructed normal price.
  - iii. The applicant ought to be directed to produce the quotations from the foreign manufacturers.
  - iv. Since Article 15(b) of Chinese Accession protocol has expired on 11th December, 2016, China PR should be treated as a market economy country.
  - v. The entity of Unilin situated in Czech has not exported the subject goods to India and therefore, they have not participated in the current investigations. Reference is made to the final findings in 'All Fully Drawn or Fully Oriented Yarn / Spin Draw Yarn / Flat Yarn of Polyester (non textured and non-POY) and other yarns' from China PR and Thailand [F. No. 15/03/2014-DGAD dated 22.9.2015], the Authority had not taken any adverse inference to that exporter whose related party had not filed the response on the ground that they have not exported the subject goods to India.
  - vi. The Authority had already visited Dura Floor Werner and verified the information submitted by it.

## **Examination by the Authority**

56. Based on the examination of comments on disclosure statement by the interested parties, the product under consideration has now been construed as “*Veneered Engineered Wooden Flooring typically has three layers of wood viz "Top Layer", "Middle Layer" and "Bottom Layer". Top Layer is real wood which gives attractive look (owing to its wooden texture) and additional strength to overall construction. It can be made of one strip of wood, two strips of wood or three strips of Wood. Middle Layer which forms core of the overall construction and it can be made of "fibre board (MDF/HDF)". Bottom Layer is real wood which provides support to the overall construction. The PUC can however be of two or three layers also*”. Accordingly, volume of imports from subject countries has been considered for determination of both dumping and injury analysis in these findings.
57. In view of the product under consideration now construed, the cooperative exporters from China PR, EU & Malaysia i.e. Fujian Wuyishan Werner Green Industry Co. Ltd., China PR, Jiangsu Senmao Bamboo Wood Industry Co. Ltd., China PR, Unilin BVBA, Belgium, Durafloor Werner GmbH, Germany and Unilin (Malaysia) Sdn. Bhd., Malaysia will not be considered for the purpose of dumping determination.

### **A) Normal Value**

#### **I. CHINA PR**

- vii. The Authority notes that the relevant provisions laid down under Annexure I to the Antidumping Rules with regard to “Market Economy Treatment” are as follows;

*[8. (1) The term “non-market economy country” means any country which the designated authority determines as not operating on market principles of cost or pricing structures, so that sales of merchandise in such country do not reflect the fair value of the merchandise, in accordance with the criteria specified in sub-paragraph (3).*

*(2) There shall be a presumption that any country that has been determined to be, or has been treated as, a non-market economy country for purposes of an anti-dumping investigation by the designated authority or by the competent authority of any WTO member country during the three year period preceding the investigation is a nonmarket economy country.*

*Provided, however, that the non-market economy country or the concerned firms from such country may rebut such a presumption by providing information and evidence to the designated authority that establishes that such*

*country is not a non-market economy country on the basis of the criteria specified in sub-paragraph (3).*

*(3) The designated authority shall consider in each case the following criteria as to whether:*

*(a) the decisions of the concerned firms in such country regarding prices, costs and inputs, including raw materials, cost of technology and labour, output, sales and investment, are made in response to market signals reflecting supply and demand and without significant State interference in this regard, and whether costs of major inputs substantially reflect market values;*

*(b) the production costs and financial situation of such firms are subject to significant distortions carried over from the former non-market economy system, in particular in relation to depreciation of assets, other write-offs, barter trade and payment via compensation of debts;*

*(c) such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms, and*

*(d) the exchange rate conversions are carried out at the market rate:*

*Provided, however, that where it is shown by sufficient evidence in writing on the basis of the criteria specified in this paragraph that market conditions prevail for one or more such firms subject to anti-dumping investigations, the designated authority may apply the principles set out in paragraphs 1 to 6 instead of the principles set out in paragraph 7 and in this paragraph]”.*

*[(4) Notwithstanding, anything contained in sub-paragraph (2), the designated authority may treat such country as market economy country which, on the basis of the latest detailed evaluation of relevant criteria, which includes the criteria specified in sub paragraph (3), has been, by publication of such evaluation in a public document, treated or determined to be treated as a market economy country for the purposes of anti-dumping investigations, by a country which is a member of the World Trade Organization].”*

viii. The Authority also notes that Article 15 of China’s Accession Protocol provides as follows:

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

- (a) *In determining price comparability under Article VI of the GATT 1994 and the Anti-Dumping Agreement, the importing WTO Member shall use either Chinese prices or costs for the industry under investigation or a methodology that is not based on a strict comparison with domestic prices or costs in China based on the following rules:*
- (i) *If the producers under investigation can clearly show that market economy conditions prevail in the industry producing the like product with regard to the manufacture, production and sale of that product, the importing WTO Member shall use Chinese prices or costs for the industry under investigation in determining price comparability;*
- (ii) *The importing WTO Member may use a methodology that is not based on a strict comparison with domestic prices or costs in China if the producers under investigation cannot clearly show that market economy conditions prevail in the industry producing the like product with regard to manufacture, production and sale of that product.*
- (b) *In proceedings under Parts II, III and V of the SCM Agreement, when addressing subsidies described in Articles 14(a), 14(b), 14(c) and 14(d), relevant provisions of the SCM Agreement shall apply; however, if there are special difficulties in that application, the importing WTO Member may then use methodologies for identifying and measuring the subsidy benefit which take into account the possibility that prevailing terms and conditions in China may not always be available as appropriate benchmarks. In applying such methodologies, where practicable, the importing WTO Member should adjust such prevailing terms and conditions before considering the use of terms and conditions prevailing outside China.*
- (c) *The importing WTO Member shall notify methodologies used in accordance with subparagraph (a) to the Committee on Anti-Dumping Practices and shall notify methodologies used in accordance with subparagraph (b) to the Committee on Subsidies and Countervailing Measures.*
- (d) *Once China has established, under the national law of the importing WTO Member, that it is a market economy, the provisions of subparagraph (a) shall be terminated provided that the importing Member's national law contains market economy criteria as of the date of accession. In any event, the provisions of subparagraph (a)(ii) shall expire 15 years after the date of accession. In addition, should China establish, pursuant to the national law of the importing WTO Member, that market economy conditions prevail in a particular industry or sector, the non-market economy provisions of subparagraph (a) shall no longer apply to that industry or sector.”*

58. Article 15 implies that provisions of one of the subparagraphs shall expire in 15 years from the date of China's Accession. The provisions of this paragraph expired on 11<sup>th</sup> December, 2016. Since the factum of dumping causing injury to the domestic industry is established based on investigation period, the conditions prevalent during the investigation period alone is relevant, appropriate and necessary for the purpose of present investigation. The Period of Investigation (POI) for the purpose of the present review is September, 2015 to October, 2016. Since the subparagraph of Article 15 was in existence during the period of investigation, the Authority may use a methodology that is not based on a strict comparison with domestic prices or costs in China if the producers under investigation cannot clearly show that market economy conditions prevailed in the industry producing the like product with regard to manufacture, production and sale of that product.

59. The Authority notes that two of the producers/exporters from China PR have responded but did not export the PUC to India during the POI. Since, no other producers/exports in the present investigation from China PR have claimed market economy treatment for determination of normal value in terms of Para-6 of Annexure-1 to the Rules, under this circumstance, the Authority is not in a position to apply Para 8 of Annexure 1 to the Rules to the Chinese producers/exporters and the Authority has to proceed in accordance with Para 7 of Annexure - I to the Rules supra.

60. The Authority notes that for determination of normal value based on third country cost and prices, the complete and exhaustive data on domestic sales or third country export sales, as well as cost of production and cooperation of such producers in third country is required. No such information with regard to prices and costs prevalent in these markets have been provided either by the applicant or by the responding exporters, nor any publicly available information could be accessed, nor the responding Chinese companies have made any claim with regard to an appropriate market economy third country. Therefore, the Authority proceeds to construct the normal value based on any other reasonable basis.

**a) Normal Value for all producers/exporters in China PR**

61. The Authority notes that no other producers/exporters from China PR, apart from these two cooperative exporters, who have not exported the PUC, have responded to the Authority in the present investigation. For all the producers/exporters in China, the Authority has determined the weighted average normal value as per facts available as \*\*\* **US\$/SQM**.

## ii. EUROPEAN UNION

### a) Tarkett Polska Sp. Z.O.O

62. The authority notes that Tarkett Polska Sp. Zoo has submitted the exporters' questionnaire response claiming to be a producer of subject goods and informed that it has exported the subject goods through its related entity namely Tarkett Hong Kong, situated in Hong Kong. The authority notes that Tarkett Polska has submitted details of domestic sales in Appendix-1. However, the product sold in domestic market does not meet the sufficiency test of 5%, accordingly, the Authority has determined the Normal Value based on the information available with the Authority as \*\*\* **US\$/SQM.**

### b) UAB BOEN

63. The Authority notes that UAB BOEN ("BOEN") has submitted the Exporters' Questionnaire response claiming to be a producer and exporter of the subject goods in European Union and informed that it has exported the subject goods directly to India. The response filed by BOEN, has been examined for the purpose of determination of normal value. It is noted that the company is producing various types of product concerned. The company has provided consolidated cost, however, product-wise was not provided. Accordingly, the Authority has determined the normal value as \*\*\* **US\$/SQM.**

### c. Normal Value for other producers/exporters in European Union

64. The Authority notes that no other producers/exporters from EU have responded to the Authority in the present investigation. For all the non-cooperative producers/exporters in EU, the Authority has determined the normal value based on facts available as \*\*\* **US\$/SQM.**

## iii. Indonesia

### Normal Value for producers/exporters in Indonesia

65. None of the producers/exporters from Indonesia filed the response to questionnaire, therefore, the Authority treated them as non-cooperative. In view of no cooperation from the producers/exporters from Indonesia, the Authority is not able to determine individual dumping margin for producers/exporters and is constrained to proceed with the principles of best available information with regard to determination of dumping margin. In view of non-cooperation of the exporters, the Authority determined normal value as per facts available in terms of Rule 6(8) of the Rules. Accordingly, Normal value has been determined as \*\*\* **US\$/SQM.**

## **B) Determination of Export Price**

### **i. China PR**

#### **Export Price for all producers/exporters in China PR**

66. The Authority notes that since none of producers/exporters from China have responded to the Authority in the present investigation. For all the producers/exporters in China, the Authority has determined the net export price as per facts available as **\*\*\*US\$/SQM.**

### **ii. European Union**

#### **a) Tarkett, Hong Kong:**

67. The Authority notes that Tarkett Hong Kong (THK) has exported the goods produced by Tarkett Polska during the POI. THK has reported a total export of 5910.80 SQM in their Appendix-2 and claimed adjustments on account of inland freight, ocean freight, insurance bank charges and SGA and same have been allowed after due verification. Accordingly, the weighted average net export price determined as **\*\*\*US\$ / SQM.**

#### **a) UAB BOEN**

68. The Authority notes that BOEN has exported the subject goods to India during the POI directly. The company has reported a total export of 23166.17 SQM in their Appendix-2 and claimed adjustments on account of inland freight, ocean freight, insurance, SGA, and bank charges and same have been allowed after due verification. Accordingly, the weighted average net export price determined as **\*\*\* US\$ / SQM.**

### **b) Export Price for other producers/exporters in EU**

69. The Authority notes that since no other producers/exporters from EU have responded to the Authority in the present investigation. For all the non-cooperative producers/exporters in EU, the Authority has determined the net export price as per facts available as **\*\*\* US\$/SQM.**

### iii. Indonesia

70. None of the producers/exporters from Indonesia filed response to the questionnaire. Therefore, the Authority treated them as non-cooperative. In view of no cooperation from the producers/exporters from Indonesia, the Authority has determined net export price as per facts available in terms of Rule 6(8) of the Rules as \*\*\* **US\$/SQM**.

#### C) Determination of Dumping Margin

71. The Authority notes since the entire volume of imports from Malaysia is found to be unrumpled and they have not exported the PUC as construed post-disclosure therefore, dumping determination has not been carried out for other producers/exporters from Malaysia.

72. Based on normal value and export price determined as above, the dumping margin for producers/exporters from subject countries has been determined by the Authority and the same is as follows:

S. No	Country	Producer	Exporter	Normal Value - US\$/Sqm	Export price - US\$/Sqm	Dumping Margin - US\$/Sqm	Dumping Margin - %	Dumping Margin Range- %
1	China PR	Any	Any	***	***	***	***	10-20
2	EU	UAB BOEN	UAB BOEN	***	***	***	***	(10-20)
3	EU	Tarkett Polska Sp. ZOO	Tarkett Hong Kong	***	***	***	***	20-30
4	EU	Any other than the producers at Sl. No. 2 &3	Any other than the exporters at Sl. No. 2 & 3	***	***	***	***	70-80
5	Indonesia	Any	Any	***	***	***	***	0-10

## **G. METHODOLOGY FOR INJURY ASSESSMENT AND EXAMINATION OF INJURY AND CAUSAL LINK**

### **INJURY DETERMINATION**

#### G.1 Injury Examination

##### **Views of the Domestic Industry**

73. The following are the injury related submissions made by the domestic industry during the course of the present investigation and considered relevant by the Authority:

- i. Petitioner has commenced the commercial production in August 2014 and thus, the Designated Authority may consider (a) actual performance so far to establish effect of dumping, (b) potential situation in order to establish threat of injury and (c) whether dumping of the product under consideration is materially retarding the establishment of the domestic industry in India.
- ii. It is not a precondition to consider performance of the domestic industry over a three years or longer period in order to assess the material injury, threat of material injury or material retardation as has been done by the Authority in anti-dumping investigation concerning Elastomeric Filament Yarn from China PR, South Korea, Taiwan and Vietnam wherein performance of domestic industry increased in most of the injury parameters but the authority had held that the domestic industry suffered injury.
- iii. The petitioner is suffering material retardation in terms of low production as compared to the projections as it is currently operating on one shift basis only and not on three shift basis, the inventories are piling up, is not able to sell its products and the profitability parameters have remained negative since commencement of the production.
- iv. The present case is justifiable for cumulative assessment as the dumped subject goods from the subject countries not only directly compete with each other's but also as with the like goods offered by the domestic industry in the Indian market.
- v. The domestic industry is suffering material injury due to the presence of dumped imports.
- vi. The Authority found the prima facie evidence of injury in the initiation notification after noting the contentions of domestic industry regarding material injury and material retardation. Thus, it cannot be said that the initiation was to assess material injury.
- vii. The demand of the product under consideration has increased significantly in comparison to the base year.
- viii. The subject imports have increased significantly in absolute terms from the base year to the POI.
- ix. The market share of the subject imports in total imports coming into India has increased from base year to the POI and holds 95% share in total imports.
- x. The subject countries hold about 78% share in demand against 17% held by the domestic industry. The imports have increased even when the petitioner has commenced commercial production with a capacity of 1 million sqm, as

- against demand of 454,825 sqm.
- xi. There is significant price undercutting during the POI
  - xii. The subject imports have depressing effects on the prices of the domestic industry.
  - xiii. The domestic industry is operating at meagre capacity utilization of 20.98%; on single shift basis and is not able to go for two/three shift basis because of dumping.
  - xiv. The sales of the domestic industry though have increased but the same is very less as compared to the capacity with the domestic industry.
  - xv. The petitioner is not getting orders to sell the product because of dumping of subject goods from the subject countries due to which it is not able to produce and sell a reasonable volume in the domestic market. Resultantly, the petitioner has been forced to suspend the production too frequently which further results in low capacity utilization.
  - xvi. The production in last two quarters of the period of investigation has declined.
  - xvii. The inventories are piling up.
  - xviii. The petitioner has suffered financial losses throughout the injury period and the same has increased significantly during the period of investigation. The losses on sale of PUC increased by 142% in investigation period as compared to the base year and 46% as compared to previous year.
  - xix. The domestic industry is suffering negative profits before interest, return on investment and cash losses.
  - xx. Despite increase in production and sales, losses suffered by the domestic industry have increased, whereas the same should have declined and the domestic industry should have been earning profits.
  - xxi. Market share of the domestic industry though have increased but is very less as compared to that held by the subject imports. Though before the commencement of production by the petitioner, the demand was met by the imports but now even when the petitioner has come into existence, the domestic industry could not get its projected share in demand, despite the fact that domestic industry is having significant capacities.
  - xxii. Employment and wages are not reflective of the adverse effects of the dumping on the domestic industry, as these factors are governed by overall operations of the company and the economy.
  - xxiii. Productivity per day has increased in the injury period following the movement of production but the same is at very low due to dumped imports.
  - xxiv. Growth with regard to profits, return on investments and cash flow has been adversely affected in the proposed period of investigation, as compared to the projections.
  - xxv. The benchmark for the Indian producer's prices is the import prices from subject countries. There is no viable substitute to this product. The demand for the product has increased. It is thus evident that the only factors responsible for the domestic industry prices are the import prices of the product from subject countries and the cost of production of the domestic industry.
  - xxvi. Two forms of injury i.e. material injury and material retardation can co-exist. The Rules imply that if one form of injury is not found, the other form of injury must be examined. "Or" has to be read as "and", if more than one form of injury exists.

- xxvii. The Authority has time and again found the co-existence of material injury and material retardation as has been done in the investigations concerning Induction Hardened Forged Steel Roll from Russia, Ukraine and Korea RP, PVC Flex Films originating in or exported from China PR, 1,1,1,2,-Tetrafluoroethane or R-134a of all types originating in or exported from China PR and Japan and O- Acid originating in or exported from China PR.
- xxviii. In the anti-dumping investigations concerning D(-) Para Hydroxy Phenyl Glycine Methyl Potassium Dane Salt originating in or exported from China PR and Singapore and D(-) Para Hydroxyl Phenyl Glycine Base originating in or exported from China PR and Singapore, the Authority found the existence of all three forms of injury i.e. material retardation, material injury and threat of injury. Reliance is also placed on finding in EU Japanese Dynamic Random Access Memory (DRAMs) case (Regulation (EEC) 165/90, OJ L20, 25.1.90).
- xxix. The examination of material injury can be done by considering Annexure-II and since petitioner has some history of production and sale, the same may be considered in determining whether the petitioner has suffered material injury. Further, comparison of parameters laid down in Annexure-II with the projected performance as per project report shows material retardation.
- xxx. Imports are leading to material retardation. The petitioner has so far suffered a loss of Rs. 65-70 crores as of now in an investment of 120 crores. The performance of the domestic industry so far clearly shows that despite short period, the performance of the domestic industry has deteriorated. If a new industry is facing injury, it follows that it is getting materially retarded.
- xxxi. The domestic industry had commenced the commercial production in August, 2014 and the period of investigation in the present investigation is October, 2015 to September, 2016. There is no reason why it cannot be termed as nascent stage of business. The domestic industry has made its claims on the basis of law and legal reasoning.
- xxxii. The examination of the impact of the dumped imports on the domestic industry should include an objective evaluation of all relevant economic factors and indices having a bearing on the state of the industry. The law doesn't say that the economic parameters necessarily show decline. The word "evaluation" doesn't mean "demonstration" and "existence". Such evaluation will definitely be different for each case as per the situation of the concerned industry. Reliance is placed on decision in EC — Bed Linen (Article 21.5 — India).
- xxxiii. As against the contentions of the interested parties, production, capacity utilisation have declined in investigation period as compared to previous year; losses shows continued increase over the entire period; inventories shows increase as compared to base year; growth shows negative in respect of production, utilisation, profits, cash flow and ROI
- xxxiv. As regards the contention of one of the interested parties that production and sales volume has grown by 160% and 350% respectively, the domestic industry submitted that the interested parties have shown the increase in absolute terms in POI as compared to 2014-15 period which is the time when the domestic industry had commenced the commercial production. The production should also be compared with the capacity available with the domestic industry which is running on single shift basis only due to dumping and then the actual capacity set up by the domestic industry.

- xxxv. As regards the contention of one of the interested parties that there is no price undercutting by EU imports, that the EU imports accounted for 20% of demand in POI while those from China were 2.5 times higher in the POI, that volume of imports from EU, Malaysia and Indonesia has gone down, the domestic industry submitted that this issue is irrelevant when the present investigation is justified for cumulative assessment.
- xxxvi. The EU commission has not established as how this price difference has led to significantly different conditions of competition between the domestic and imported product and inter-se between imported products. All the conditions required for cumulative assessment are met.
- xxxvii. The reduction in prices was due to the fact that the domestic industry was not able to sell its product in view of dumping.
- xxxviii. The reduction in cost was not due to decline in input cost but due to increase in production and increase in fixed costs. Thus, decline in costs is due to decline in conversion costs.
- xxxix. The increase in revenue, as mentioned in the audit report of petitioner, cannot eclipse the fact that the petitioner had been suffering losses during the injury period.
  - xl. As regards the contention of one of the interested parties that the capital employed of the Domestic Industry is fluctuating due to the inapt decision of increasing the capacity of the Domestic Industry every year, the domestic industry submitted that the capacity of the domestic industry has always been constant. Since it started commercial production in August, 2014, the capacity is 222,222 sqm otherwise the annual capacity is 333,333 sqm (one shift basis).
  - xli. The demand for the product under consideration justifies the capacity installed by the domestic industry.
  - xliv. As per the Recommendation by the Committee on Anti-Dumping Practices (c) the period of data collection for injury investigations normally should be at least three years, unless a party from whom data is being gathered has existed for a lesser period, and should include the entirety of the period of data collection for the dumping investigation. Thus, in the present investigation, the data is available from the date of commencement of commercial production and the same has been taken into consideration.

74. The domestic industry submitted as follows as regard to the causal link:

- i. The imports from countries other than the subject countries are not significant.
- ii. Demand for the product under consideration during period of investigation is quite significant and hence, is not a cause of the injury to the domestic industry.
- iii. The other known factors viz. export performance, technology, performance of the other products of the company, trade restrictive practices listed in the anti-dumping agreement or in the Rules have not caused injury to the domestic industry.
- iv. Price undercutting being caused by the dumped imports is preventing the domestic industry from charging a fair price.
- v. The price depression effect of dumped imports from subject countries has resulted in significant financial losses to the domestic industry.
- vi. Significant financial losses has led to deterioration in return on capital

- employed and cash profits;
- vii. The growth of the domestic industry is negative in terms of a number of price parameters. Growth is far below projected levels in respect of various volume parameters.
  - viii. Market share of the imports from subject countries remained at a very significant level.
  - ix. The domestic industry could not achieve the expected level of production, capacity utilization and sales volumes due to dumped imports.
  - x. Even when the production is so low, the inventories with the petitioner are piling up.
  - xi. Since the domestic industry has started offering the product under consideration in the market from August, 2014, the prices fixed by the domestic industry were benchmarked to the import prices.
  - xii. As regards the contention of one of the interested parties that the injury, if any, caused to the domestic industry is due to impact of startup cost, the domestic industry has no reservation regarding adjustments for start-up costs.
  - xiii. As regards the contention of one of the interested parties that the injury, if any, caused to the domestic industry is due to unrealistic analysis of market, the petitioner has already put on record the project report which shows that it has conceived a viable project. The capacity set up by the petitioner is in line with the present demand of the product in the country which is likely to show an increase in future.
  - xiv. As regards the contention of one of the interested parties that the injury, if any, caused to the domestic industry is due to lack of know-how and reputation, the petitioner is a well-known name in the country has network of 14,000 dealers/distributors and hence, cannot be a reason of injury to the domestic industry when the name of Chinese producers who has sold the highest volume is not known.

#### **Submissions made by the other interested parties**

75. The following are the injury related submissions made by the other interested parties during the course of the present investigation and considered relevant by the Authority
- i. The claim raised by the domestic industry is of material retardation. However, domestic industry started operations in August 2014, i.e. only a year before the POI, when it was at an early stage of establishment.
  - ii. The import volume from subject countries has increased but the same is in view of increase in demand and decrease in imports from other countries.
  - iii. The volume of imports from Malaysia, Indonesia and EU has gone down.
  - iv. The trend of price from subject countries and domestic industry has been reducing from 2013-14 to POI. This reduction in prices may be due to reduction in the prices of raw material and reduction of the cost.
  - v. The capacity, production and capacity utilization have increased during the period of investigation and Production and sales volume has grown by 160% and 350% respectively.
  - vi. The Domestic Sales is in line with the increase in the production.

- vii. Though imports have increased but so has the demand and domestic industry's market share. Market share of imports have decreased.
- viii. Inventories have fallen.
- ix. There is no price undercutting by EU imports. As per petitioners' own claim, price undercutting has fallen drastically since the petitioner has started its production.
- x. Price undercutting is not a factor of injury by itself.
- xi. Domestic Industry has not given any information regarding price underselling.
- xii. The imported goods being very expensive cannot have the effect of depressing the domestic prices.
- xiii. Export price of EU has always been higher than other imports and thus, are not competing with those imported from other subject countries.
- xiv. EU imports should not be cumulated with imports from other sources.
- xv. The condition of the petitioner has improved during the POI regarding losses and is picking up the momentum.
- xvi. The cost has reduced by 40% in POI as compared to base year 2013-14, however, selling price has reduced by only 20%. The petitioner has exhausted the profit under some other heads of expenses within the organization.
- xvii. The Capital Employed of the Domestic Industry is fluctuating due to the inapt decision of increasing the capacity of the Domestic Industry every year.
- xviii. The petitioner is a new entrant in the market, recently incurred a capital expenditure of 120 cores, and is showing a ROCE as 17% (according to annual report).
- xix. Petitioner is growing at a healthy rate of 292% according to its annual report. Net revenue, according to the Annual report of 2015-2016, for veneer and allied products has increased by 40%.
- xx. Sales, production and revenue have risen by 292%, 170% and 234% respectively (as per Annual Report).
- xxi. As per Audit Report of M/s. Greenlam Industries Ltd., the revenue from Veneer and Allied Products has increased during the year 2016 as compared to 2015.
- xxii. In the petition, the petitioner has included the self-imports from the subject countries while computing the injury to the domestic industry. In such case, the injury claimed is flawed.
- xxiii. The domestic industry has established abnormally high capacities.
- xxiv. Injury, if any, is account of their inefficiencies and mismanagement which is apparent from the fact that they have established the production capacity at much larger scale than the total demand in the country, defying the marketing logic.
- xxv. The Domestic Industry is trying to mislead the Authority by submitting that the imports are cheaper as compared to their selling price. The Domestic Industry is comparing the incomparable which is evident from the scope of the Product under Consideration as defined in the petition and the methodology of the segregation of data as provided in the application.
- xxvi. The decision of the Authority to initiate the investigation is based on low production, sales, capacity utilization and market share. As per Annexure II, all the parameters relied upon by the Authority for the purpose of initiation,

- have to necessarily show a “decline”. It is not sufficient if the said factors are claimed to be “low”.
- xxvii. Two forms of injury i.e. material retardation to the establishment of the industry and material injury cannot co-exist as the use of the word “or” in Section 9B and Rule 11 signifies that the Authority has the power to address either the “material injury” or “material retardation”.
- xxviii. “Injury” presumes that the industry is already established while “material retardation” deals with a situation where the industry is in the process of establishing itself.
- xxix. The claim that Annexure II refers to all types of injury, is completely misplaced. The combined reference to “injury” is only in the context of the procedure to be followed for any type of injury. The two terms can be used interchangeably even for the purpose of Section 9B and Rule 11, where the distinction is absolutely clear.
- xxx. The Domestic Industry has miserably failed to make out a case of “material retardation to the establishment of the industry” even on legal or factual premise.
- xxxi. The case of the Domestic Industry does not even fall under the category where the Domestic Industry has not commenced the commercial production or they are in the nascent stage of business.
- xxxii. No industry can logically claim material retardation when it is an established fact that they have been in commercial production for over about 2 years and have admittedly already acquired around 17% of the total domestic demand.
- xxxiii. As per “Draft Consolidated Chair Texts of the Anti-dumping and SCM Agreements”, which has also been relied upon by the petitioner, the provision of material retardation cannot be invoked where admittedly the industry has been in commercial production for over 2 years.
- xxxiv. While the initiation notification after quoting the claim of the domestic industry for material retardation went on to initiate the investigation for ‘injury to the domestic industry’. The Designated Authority being a quasi-judicial body cannot go beyond the purview of the initiation notification published and served upon the parties to the investigation.
- xxxv. There is no “decline” in any of the factors relied upon by the Authority. Thus, the legal requirement of “adequacy and accuracy” as well as of “sufficiency” fails completely.
- xxxvi. As imported goods are more expensive than the domestic products, there is no correlation between the alleged injury and the imports.
- xxxvii. There are other factors responsible for situation of domestic industry such as impact of start-up costs, unrealistic analysis of market and unrealistic expectation of profits in so less time and lack of know-how and reputation.
- xxxviii. The reason for the increase of imports from subject countries from 2013 to 2016 is not dumping, but the rapid growth of the demand in Indian market following the fast development of downstream industry.

### **Examination by the Authority**

76. The Authority has taken note of the submissions made by the interested parties and the Authority has examined the injury- both material injury and material retardation to the establishment of the domestic industry in

accordance with the Anti-dumping Rules and considering the submissions made by the interested parties.

77. As regards the contention that initiation notification does not mention 'material retardation' as reflective of injury to the domestic industry, the Authority notes the para 14 of the initiation notification reads as follows:

*"The applicant has claimed that the domestic industry has suffered material injury from dumped imports as shown by various parameters..... The applicant has also claimed that dumping of the product under consideration is materially retarding the establishment of domestic industry. The production, sales, capacity utilization and market share of the domestic industry is quite low considering the demand for the product in the Country and considering that the domestic industry commenced commercial production sometime back. There is sufficient prima facie evidence of injury being suffered by the domestic industry caused by alleged dumped imports from the subject countries to justify initiation of antidumping investigations.*

78. It is noted that the notice of initiation referred to both form of injury - material injury as well as material retardation. As regards the contention that the petitioner's business is not in nascent stage, the Authority notes that the domestic industry commenced its production of the subject goods in August, 2014 only and despite reporting capacity on one shift basis (as against three shift basis working for which capacities have been installed), the capacity utilization of the domestic industry is quite low. The domestic industry is not able to operationalize its production on three shift basis and utilising production capacities to the extent the petitioner had envisaged while setting up the plant based on its projection.

79. As regards the contention that the imports increased because of increase in demand, the Authority notes that the imports increased even when the domestic industry is admittedly holding capacities far beyond the domestic demand and able to produce and sell the product of types which commands majority of the demand. There was no domestic producer of the subject goods in India till 2014, hence the entire demand was being met by imports. The domestic industry has installed significant capacities; but it has not been able to reach the target levels of capacity utilization, as a result thereof, its capacity utilization has been dismally low.

80. As regards the contention of the other interested parties that the economic parameters of the domestic industry have improved during the POI as compared to previous period; the Authority notes that the performance of the domestic industry has been examined over the period of its existence. Accordingly any producer required to take steps to improve its performance as regards its production and sales over the period. As a result thereof, the capacity utilization gradually improved. However, the capacity utilisation remained at abysmally low level, if the capacities installed by the domestic industry are considered. Thus, the increase in production and sales over the injury period is reflective of the efforts made by the domestic industry to establish itself in the market, even though it had suffered losses.

81. It is seen that the information filed by the domestic industry shows that its performance has deteriorated over the injury period. While there are no specific rules on the methodology to be adopted for evaluation of material retardation of the establishment of a domestic industry, the authority has examined the performance of the domestic industry over the period of its existence and has compared its actual performance with the expected performance while setting up the plant. In this case, the Applicant has made efforts to establish itself in respect of the subject goods in India, as would be apparent from the fact that the Plant has been installed and considerable investment has taken place; but before viable commercial production could take place to the extent projected/planned, however, dumped imports have not allowed them to utilize its capacity even in the existing demand. In the circumstances, the Authority has examined whether 'injury' to the domestic industry has been caused and establishment of the domestic industry has been retarded.
82. As regards the contention that material retardation and materials injury cannot co-exist, the Authority notes that there is no bar under the law for examination of more than one form of injury. The authority has been examining both material injury and material retardation to establishment of the domestic industry in those cases where the domestic industry does not have performance over a longer period and the domestic industry has set up production facilities in recent period. The authority has been examining performance of the domestic industry to the extent of its existence and comparing the performance of the domestic industry with the projected performance.
83. As regards the contentions that the EU imports accounted for 20% of demand in POI while those from China were 2.5 times higher in the POI, that volume of imports from EU, Malaysia and Indonesia has gone down, the Authority notes that decreased volume of imports from Indonesia, Malaysia and EU does not mean that these would not have caused injury to the domestic industry. The authority has examined injury to the domestic industry cumulatively from subject countries as per Annex II of the AD Rules. During the course of investigation, it was found that the imports from Malaysia was undumped, therefore, the Authority has excluded the volume of imports from Malaysia while calculating its share in total imports from subject countries. In view of undumped imports from Malaysia, the Authority terminates the investigation against Malaysia. In view of this, the volume of imports from Malaysia has not been taken for the purpose of dumping and injury analysis. Therefore, in this investigation China PR, Indonesia and European Union now constitute the subject countries.

### **Cumulative Assessment**

84. Para (iii) of Annexure II of the Anti-dumping Rules provide that in case where imports of a product from more than one country are being simultaneously

subjected to anti-dumping investigations, the Authority will cumulatively assess the effect of such imports, in case it determines that:

- a) the margin of dumping established in relation to the imports from each country is more than two percent expressed as percentage of export price and the volume of the imports from each country is three percent (or more) of the import of like article or where the export of individual countries is less than three percent, the imports collectively account for more than seven percent of the import of like article and.
- b) Cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic articles.

85. The Authority notes that:

- a) The subject goods are being dumped into India from subject countries. The margins of dumping from each of the subject countries are more than the de minimis limits prescribed under the Rules.
- b) The volume of imports from each of the subject countries is individually more than 3% of total volume of imports.
- c) Cumulative assessment of the effects of imports is appropriate as the exports from the subject countries not only directly compete inter se but also with the like articles offered by the domestic industry in the Indian market.

86. In view of the above, the Authority considers that it would be appropriate to assess injury to the domestic industry cumulatively from exports of the subject goods from the subject countries.

87. Rule 11 of Antidumping Rules read with Annexure II provides that an injury determination shall involve examination of factors that may indicate injury to the domestic industry, "... taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles...". In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. For the examination of the impact of the dumped imports on the domestic industry in India, indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, stock, profitability, net sales realization, the magnitude and margin of dumping, etc. have been considered in accordance with Annexure II of the Anti-dumping Rules.

88. The submissions made by the domestic industry and other interested parties during the course of investigations with regard to injury and causal link and considered relevant by the Authority are examined and addressed as below.

**G ii. Volume Effect of Dumped Imports on the Domestic Industry**

**(a) Assessment of Demand/Apparent Consumption**

89. The Authority has taken into consideration, for the purpose of the present investigation, demand or apparent consumption of the product in India as the sum of domestic sales of the Indian Producers and imports from all sources. The demand so assessed shows increase over the injury period, as is given in the table below. The demand has increased during the period of investigation as compared to the base year.

Particular	Unit	2013-14	2014-15	2015-16	POI
<b>Demand in India</b>					
Domestic Industry Sales	Sqm	-	17,321	64,753	78,584
Imports from Subject countries	Sqm	247,480	302,964	331,445	313,622
China PR	Sqm	144,500	225,889	192,366	199,792
Indonesia	Sqm	11,592	7,829	19,631	17,657
EU	Sqm	91,388	69,246	119,448	96,173
Imports from Other Countries	Sqm	60,687	45,096	60,293	47,749
Total Demand/consumption	Sqm	308,167	365,381	456,490	439,954

**(b) Import Volumes from subject countries**

90. With regard to the volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in imports from subject countries, either in absolute terms or relative to production or consumption in India. The volume of imports of the subject goods from the subject countries has been analyzed as under:

Particular	Unit	2013-14	2014-15	2015-16	POI
Import Volume					
Subject countries	Sqm	247,480	302,964	331,445	313,622
China PR	Sqm	144,500	225,889	192,366	199,792
Indonesia	Sqm	11,592	7,829	19,631	17,657
EU	Sqm	91,388	69,246	119,448	96,173
Other Countries	Sqm	60,687	45,096	60,293	47,749
Total Imports	Sqm	308,167	348,060	391,737	361,371

91. It is seen that imports of the subject goods from the subject countries in absolute terms have increased over the injury period. The imports from the subject countries have shown growth during the period of investigation as compared to the base year. In fact, the subject imports have increased

throughout the injury period except a marginal decline in the period of investigation.

**(c) Subject Country Imports in relative terms**

Particular	Unit	2013-14	2014-15	2015-16	POI
Share of Subject Countries Imports in relation to					
Total imports in India	%	80.31%	87.04%	84.61%	86.79%
Demand in India	%	80.31%	82.92%	72.61%	71.29%
Production	%	-	1125.52%	455.15%	448.45%
Domestic Sales	%	-	1749.14%	511.86%	399.09%

92. It is seen that as a result of commencement of production by the domestic industry, share of the dumped imports from subject countries have increased in relation to total imports entering India. However, share of the subject imports have decreased during the injury period in relation to Indian demand, production and domestic sales of the domestic industry.

**(d) Share of subject imports in total imports**

Particular	Unit	2013-14	2014-15	2015-16	POI
Market Share In imports					
Subject countries	%	80.31	87.04	84.61	86.79
China PR	%	46.89	64.90	49.11	55.29
Indonesia	%	3.76	2.25	5.01	4.89
EU	%	29.66	19.89	30.49	26.61
Other Countries	%	19.69	12.96	15.39	13.21

93. It is seen that the share of dumped imports from subject countries in imports of the product under consideration in India has increased over the injury period. The share of imports from subject countries in total imports is around 87% during the period of investigation which is significant.

**(e) Market Share in Demand**

94. Considering imports from various sources and sales of the domestic industry, market share of subject imports in demand in India was examined. The Authority notes that the market share of the subject imports has decreased over the injury period. However, even when the capacities with the domestic industry are higher than the demand in the Country, imports continue to hold majority market share and stood at significant 71% during the POI.

Particular	Unit	2013-14	2014-15	2015-16	POI
<b>Market Share In Demand</b>					
Domestic Industry Sales	%	-	4.74	14.18	17.86
Imports from Subject countries	%	80.31	82.92	72.61	71.29
China PR	%	46.89	61.82	42.14	45.41
Indonesia	%	3.76	2.14	4.30	4.01
EU	%	29.66	18.95	26.17	21.86
Imports from Other Countries	%	19.69	12.34	13.21	10.85

## H. Price Effect of Dumped Imports on the Domestic Industry

95. With regard to the effect of the dumped imports on prices, it is required to be analyzed whether there has been a significant price undercutting by the alleged dumped imports as compared to the price of the like products in India, or whether the effect of such imports is otherwise to depress prices or prevent price increases, which otherwise would have occurred in the normal course. The impact on the prices of the domestic industry on account of the dumped imports from subject countries has been examined with reference to the price undercutting, price underselling, price suppression and price depression, if any. For the purpose of this analysis, the cost of production, net sales realization (NSR) and the non-injurious price (NIP) of the domestic industry have been compared with weighted average landed cost of imports of the subject goods from the subject countries.

### a) Price Undercutting

96. For the purpose of price undercutting analysis the net selling price of the domestic industry has been compared with the landed value of imports from the subject countries. While computing the net selling price of the domestic industry all taxes, rebates, discounts and commissions have been deducted and sales realization at ex works level is determined for comparison with the landed value of the dumped imports. Accordingly the undercutting effects of the dumped imports from the subject countries work out as follows:

Particulars	Unit	China PR	EU	Indonesia	Subject Countries
Landed Value	Rs./SQM	1,300	1,535	1,389	1,374
Net Sales realization	Rs./SQM	***	***	***	***
Price Undercutting	Rs./SQM	***	***	***	***
Price Undercutting	%	***	***	***	***
Price Undercutting	% Range	35-45	25-35	30-40	30-40

97. Price undercutting from the subject countries are positive and significant.

### Price undercutting by cooperative Exporters

SN	Country	Producer	Exporter	NSR - US\$/Sqm	Landed Value - US\$/Sqm	Price Undercutting - US\$/Sqm	Price Undercutting - %	Price Undercutting Range- %
1	EU	UAB BOEN	UAB BOEN	***	***	***	***	Negative
2	EU	Tarkett Polska Sp. Zoo	Tarkett Hong Kong	***	***	***	***	Negative

98. It is noted that the price undercutting from UAB BOEN, EU and Tarkett Polska Sp. Zoo, Poland (producer) and Tarkett, Hongkong (exporter) is negative.

#### b) Price Suppression and Depression

99. In order to determine whether the dumped imports are suppressing or depressing the domestic prices and whether the effect of such imports is to suppress prices to a significant degree or prevent price increases which otherwise would have occurred in normal course, the changes in the costs and prices over the injury period, were compared as below:

Particular	Unit	2013-14	2014-15	2015-16	POI
Cost of Sales - Domestic	Rs per Sqm	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	-	100	62	61
Selling price - Domestic	Rs per Sqm	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	-	100	84	80
Landed Value from Subject Countries	Rs per Sqm	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	118	102	94

100. From the above, it is noted that the selling price of the domestic industry is much below the cost of domestic industry during the entire injury period. The landed value of imports from the subject countries has decreased during the period of investigation as compared to the previous year and the base year also. The exporters from the subject countries have been selling the subject goods below the cost and selling price of the domestic industry throughout the injury period. While the cost of production of the domestic industry were quite high in 2014-15 due to initial commencement of production and very low level of production, the same declined as the production increased. However, the selling price remained much below the cost of production and the landed price of imports remained significantly below the selling price of the domestic industry.

**c) Price Underselling**

101. The non-injurious price (NIP) of the domestic industry has been determined and compared with the landed value of the subject goods to arrive at the extent of price underselling. The NIP of the product under consideration has been determined by adopting the verified information/data relating to the cost of production for the period of investigation. Since the petitioner has commenced commercial production only in 2014 with one shift working, the actual level of capacity utilisation being very low, 100% capacity utilisation considering one shift operation has been adopted. As per project report the optimum capacity is assessed to 800000 sq. metres. But the company in its Annual Report of 2015-16 stated that the Company can produce 1000000 sq. metres. The analysis shows that during the period of investigation, the landed value of subject imports were below the non-injurious price of the domestic industry, as can be seen from the table below, demonstrating positive price underselling effect:

<b>Price Underselling</b>	<b>Units</b>	<b>China PR</b>	<b>Indonesia</b>	<b>EU</b>
Non-Injurious Price	US\$ per Sqm	***	***	***
Landed Value	US\$ per Sqm	***	***	***
Price underselling	US\$ per Sqm	***	***	***
Price underselling	%	***	***	***
Price underselling	Range %	1-10	1-10	45-55

**a) Price underselling by cooperative Exporters**

<b>SN</b>	<b>Country</b>	<b>Producer</b>	<b>Exporter</b>	<b>NIP - US\$/Sqm</b>	<b>Landed Value - US\$/Sqm</b>	<b>Under selling - US\$/Sqm</b>	<b>Under selling - %</b>	<b>Under selling Range-%</b>
1	EU	UAB BOEN	UAB BOEN	***	***	***	***	Negative
2	EU	Tarkett Polska Sp. Zoo	Tarkett Hong Kong	***	***	***	***	Negative

102. It is noted that the price underselling from UAB BOEN & Tarkett Polska Sp. Zoo, Poland (producer) and Tarkett, Hongkong (exporter) from EU is negative.

**I. Economic Parameters of the Domestic Industry**

103. Annexure II to the Anti-dumping Rules requires that the determination of injury shall involve an objective examination of the consequent impact of these imports on domestic producers of such products. With regard to consequent impact of these imports on domestic producers of such products, the Anti-dumping Rules further provide that the examination of the impact of the dumped imports on the domestic industry should include an objective and unbiased evaluation of all relevant economic factors and indices having

a bearing on the state of the industry, including actual and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments.

104. The Authority has examined the injury parameters objectively taking into account various facts and arguments made by the interested parties in their submissions.

**(a) Production, Capacity, Capacity Utilization and Sales**

105. Capacity, production, capacity utilization and sales of the domestic industry over the injury period is given in the following table:-

Particular	Unit	2013-14	2014-15	2015-16	POI
Capacity (single shift)	Sqm	-	222,222	333,333	333,333
<i>Trend</i>	<i>Indexed</i>	-	100	150	150
Production	Sqm	-	26,918	72,821	69,935
<i>Trend</i>	<i>Indexed</i>	-	100	271	260
Capacity Utilization	%	-	12.11%	21.85%	20.98%
<i>Trend</i>	<i>Indexed</i>	-	100	180	173
Domestic Sales	Sqm	-	17,321	64,753	78,584
<i>Trends</i>	<i>Indexed</i>	-	100	374	454

106. It is noted that:

- a) Since the petitioner has started its commercial production in August, 2014, the capacity of the petitioner for 2014-15 has been considered as 222,222 SQM proportionate to the number of days of plant running. The production, capacity utilization and sales volume though have increased over the period. However, whereas production and capacity utilisation increased till 2015-16, the same declined in POI, whereas sales volumes increased in the POI also.
- b) Since the petitioner commenced commercial production only in August, 2014, these parameters have been compared with the projections earlier drawn by the petitioner in its project report. It is seen that the petitioner has deployed its capacities only to the extent of 1/3<sup>rd</sup> of the capacities created by the petitioner. Further, despite having deployed only 1/3<sup>rd</sup> capacity, the capacity utilisation achieved by the petitioner is not only quite low, but also marginally declined in POI as compared to preceding year, whereas it is normally expected that a new plant shall achieve rising production and capacity utilisation levels. Authority notes that this product being a Niche product which is not price sensitive rather it is more customer/ brand oriented and to compete and establish in a market generally takes longer time. In view of the huge capacity of plant, sales of such Niche item takes time however, the petitioner could manage the shares of 17% in total demand, is due to well established marketing channel in the similar product in the entire country.

- c) Since the petitioner is a new producer, the production and sales of the domestic industry were compared with the demand for the PUC and trends in the demand for the PUC. It is seen that whereas (i) the domestic industry is holding capacities which are twice the demand for the product in the Country, (ii) the demand for the PUC has shown increase, sales of the domestic industry constituted 17% of demand in spite of the fact that the landed price is much lower than the domestic price. Also in the domestic market the product is having limited demand as the product is meant for a certain class of customer.

**(b) Profitability, return on investment and cash profits**

107. Profitability, return on investment and cash profits of the domestic industry over the injury period is given in the table below:-

Particular	Unit	2013-14	2014-15	2015-16	POI
Profit/loss - Domestic	Rs. Lacs	-	***	***	***
<i>Trend</i>	<i>Indexed</i>	-	(100)	(196)	(242)
PBIT	Rs. Lacs	-	***	***	***
<i>Trend</i>	<i>Indexed</i>	-	(100)	(209)	(291)
Cash Profit	Rs. Lacs	-	***	***	***
<i>Trend</i>	<i>Indexed</i>	-	(100)	(203)	(267)
<i>Capital Employed</i>	Rs. Lacs	-	***	***	***
ROCE	%	-	***	***	***
<i>Trend</i>	<i>Indexed</i>	-	(100)	(128)	(168)

108. It is noted that:

- a) Petitioner has suffered financial losses throughout the injury period. Losses increased significantly in POI. The losses on sale of PUC increased during investigation period. It is noted that with increase in sales, losses increased.
- b) The domestic industry is suffering negative profits before interest, return on investment and cash losses. The extent of cash loss and negative ROI is significant.

**(c) Market Share in Demand**

109. Market share of the domestic industry in demand for the product under consideration is given in the table below:

Particular	Unit	2013-14	2014-15	2015-16	POI
Domestic Industry Sales	%	-	4.74	14.18	17.86
Imports from Subject countries	%	80.31	82.92	72.61	71.29
Imports from Other Countries	%	19.69	12.34	13.21	10.85

110. It is seen that market share of the domestic industry though increased, the same is very low as compared to (i) capacities created by the domestic industry and (ii) market share held by the subject imports.

#### **(d) Employment, productivity and wages**

111. Employment, productivity and wages over the injury period is given in the table below

<b>Particular</b>	<b>Unit</b>	<b>2013-14</b>	<b>2014-15</b>	<b>2015-16</b>	<b>POI</b>
Employment	Nos	-	***	***	***
<i>Trend</i>	<i>Indexed</i>	-	100	166	178
Wages	Rs. Lacs	-	***	***	***
<i>Trend</i>	<i>Indexed</i>	-	100	248	287
Productivity per employee	Sqm/Nos.	-	***	***	***
<i>Trend</i>	<i>Indexed</i>	-	100	163	146
Productivity per day	Sqm/day	-	***	***	***
<i>Trend</i>	<i>Indexed</i>	-	100	180	173

112. It is seen from that the employment level has increased throughout the injury period. Wages paid by the domestic industry also have shown increase. Productivity of the domestic industry has increased over the period.

#### **(e) Inventories**

113. Inventory position with the domestic industry over the injury period is given in the table below:

<b>Particular</b>	<b>Unit</b>	<b>2013-14</b>	<b>2014-15</b>	<b>2015-16</b>	<b>POI</b>
Opening Stock	Sqm	-	***	***	***
Closing Stock	Sqm	-	***	***	***
Average stock	Sqm	-	***	***	***
<i>Trend</i>	<i>Indexed</i>	-	100	135	165

114. It is seen that the inventories with the domestic industry increased in 2015-16. However, due to reduced production in POI which has led to some decline in inventories. However, inventories with the domestic industry during the investigation period continued to be higher.

#### **(f) Growth**

115. Growth of the domestic industry with regard to profits, return on investments, production, capacity utilisation and cash flow has been negative, whereas the growth with regard to sales and market share was positive. Considering that the domestic industry commenced commercial production only in August, 2014, the growth of the domestic industry over the period was adverse as

compared to projections drawn by the domestic industry.

**(g) Ability to Raise Capital Investments**

116. The petitioner has made fresh investment very recently. The negative profitability, cash flows, return, increased losses indicate that the ability of the domestic industry to raise capital investment may not be appropriate at this stage.

**(h) Factors affecting domestic prices**

117. The petitioner is a new producer for the PUC in the Country. It is noted that the selling price of domestic industry is higher than the landed value for the product under consideration. It is also further noted that the creation of huge production facility which is almost two and half times of the domestic demand aggravated the cost of production at lower capacity utilization.

**(i) Magnitude of dumping margin**

118. The dumping margin from the subject countries are not only more than de-minims but also substantial. The impact of dumping on the domestic industry is significant.

**J. Conclusion on injury**

119. Imports of the PUC have increased over the injury period. The petitioner has commenced commercial production for the PUC very recently and has set up production capacities which are far higher than demand for the PUC in the Country. Despite this, the market share of dumped imports has been not only hold majority share but also quite significant. Price undercutting is significantly positive. Imports have led to price depression in the market. The margin of injury is positive.

120. Performance of domestic industry deteriorated in respect of parameters such as profit, cash flow and return on investment over injury period. Performance of the domestic industry deteriorated in the investigation period as compared to preceding year in respect of production and capacity utilisation. Inventories have increased. Despite overall increase in production and sales, losses were suffered by the domestic industry. The performance of domestic industry has been affected in terms of utilization of capacities, production, sales, market share, profits, cash profits and ROI as compared to the projections earlier drawn by the petitioner while setting up the plant. Dumping is materially retarding the establishment of domestic industry. Further, the domestic industry suffered material injury to the extent of its existence due to presence of dumped imports.

121. The Authority further notes that it is not necessary that all parameters of injury need to show deterioration. The Authority has considered all injury parameters and thereafter has concluded injury to the domestic industry due to dumping.

## **K. MAGNITUDE OF INJURY AND INJURY MARGIN**

122. The Authority has determined Non Injurious Price for the domestic industry on the basis of principles laid down in anti-dumping Rules read with Annexure III, as amended. The NIP of the product under consideration has been determined by adopting the verified information/data relating to the cost of production for the period of investigation. The PCN wise NIP has been considered for comparing the landed price from each of the subject countries for calculating injury margin. For determining NIP, the best utilisation of the raw materials by the domestic industry over the injury period has been considered. The same treatment has been done with the utilities. The best utilisation of production capacity over the injury period has been considered. The production in POI has been calculated considering the best capacity utilisation and the same production has been considered for arriving per unit fixed cost. It is ensured that no extraordinary or non-recurring expenses were charged to the cost of production. A reasonable return (pre-tax @ 22%) on average capital employed (i.e. Average Net Fixed Assets plus Average Working Capital) for the product under consideration was allowed as pre-tax profit to arrive at the NIP as prescribed in Annexure-III and being followed by the Authority. The PCN wise non-injurious price so determined has been compared with the landed prices of imports from the subject countries to determine the injury margin as follows;

SN	Country	Producer	Exporter	NIP - US\$/Sqm	Landed Value - US\$/Sqm	Injury Margin - US\$/Sqm	Injury Margin - %	Injury Margin Range-%
1	China PR	Any	Any	***	***	***	***	0-10
2	EU	UAB BOEN	UAB BOEN	***	***	***	***	Negative
3	EU	Tarkett Polska Sp. Zoo	Tarkett Hong Kong	***	***	***	***	Negative
4	EU	Any other than at Serial No. 2 &3	Any other than at Serial No. 2 &3	***	***	***	***	40-50
5	Indonesia	Any	Any	***	***	***	***	0-10

## **L. Causal Link and other factors**

123. Having examined the existence of material injury, volume and price effects of dumped imports on the prices of the domestic industry, in terms of its price underselling and price suppression, and depression effects, other indicative parameters listed under the Indian Rules and Agreement on Anti-Dumping have been examined to see whether any other factor, other than the dumped imports could have contributed to injury to the domestic industry. Accordingly, the following parameters have been examined:

- i. Volume and value of imports from countries other than the Subject Countries- Imports from countries other than the subject countries are not significant in volumes as either the volume is de-minimis or the price is higher. Imports from third countries are not causing any injury to the domestic industry.
  - ii. Contraction of demand or Changes in the pattern of consumption- The Authority notes that despite increased demand for the subject goods in the country, the domestic industry has suffered from unutilized capacity. The market has not undergone any change in the pattern of consumption in such a manner as would have adversely impacted the domestic industry. Possible contraction of demand or changes in the pattern of consumption has not caused injury to the domestic industry. However this could be partly attributed to the fact that PUC is 'Niche' Product.
  - iii. Development in Technology- None of the interested parties has furnished any evidence to demonstrate significant changes in technology that could have caused injury to the domestic industry. The petitioner has set up a new plant for production of the PUC and there is no evidence that the technology adopted by the petitioner could be a cause of injury to the domestic industry.
  - iv. Trade restrictive practices and competition between supplies from various sources- The Authority notes that the subject goods are not subjected to any trade restrictive practices in India. Moreover, apart from the competition that is obvious in any market economy, no inter se competition or competition between supplies from various domestic and international sources exhibit any such impact that could be construed as injurious to the domestic industry.
  - v. Export performance- The domestic industry does not have significant export performance. In any case, performance of the domestic industry has been segregated for domestic and export market. Therefore, any possible decline in export performance is not a cause of injury to the domestic industry.
124. Factors establishing causal link:-
- a. Price undercutting being caused by the dumped imports is preventing the domestic industry from charging a fair price.
  - b. The price suppression and depression effect of dumped imports from subject countries have resulted in financial losses to the domestic industry and it has led to deterioration in return on capital employed and cash profits;
  - c. Market share of the imports from subject countries remained at significant level.
  - d. The domestic industry could not achieve the expected level of production, capacity utilization, and sales volumes due to dumped imports.
  - e. Even when the production is so low, the inventories with the petitioner are still available.

125. The essential facts gathered by the Designated Authority during the course of the investigation, and as established by the Designated Authority on the basis of information received from various sources were disclosed vide disclosure statement dated 31<sup>st</sup> of January, 2018, in order to enable the various interested parties to offer their comments on the facts gathered by the Designated Authority. Based on the comments received on various aspects of the investigation thereof from the interested parties to this disclosure statement to the extent they are relevant has been considered and addressed accordingly in this final finding.

## **M. POST DISCLOSURE STATEMENT SUBMISSIONS BY THE INTERESTED PARTIES**

### **L.1 Submissions by Domestic Industry**

126. The domestic industry, in its post disclosure submissions has submitted as follows. For the sake of brevity, comments made by the domestic industry, to the extent they are reiterations of the earlier submissions and already dealt with hereinabove, have not been repeated hereunder:

- (a) Certain essential facts, relating to dumping margin, basis of export price adopted for responding exporter, verification of exporters and communications with the exporters have not been disclosed, copy of all communications with the other interested parties, normal value methodology, due to which an effective opportunity to make comments has been denied.
- (b) The Authority may kindly note in the final findings that the domestic industry has already produced the products having inlay work.
- (c) The Authority has not addressed the issue raised about suppression of facts by Chinese and Malaysian producers regarding receiving incentives.
- (d) Unilin SRO Czech Republic One of the related producers of Unilin BVBA, Belgium i.e. Unilin SRO Czech Republic who is also a producer of the subject goods in European Union has not participated in the present investigations. Thus, the response of Unilin, Belgium and Unilin, Malaysia should be rejected.
- (e) The petitioner had identified more than one exporter from Malaysia and only one exporter has responded. It appears to be a presumption that the entirety of the exports made from Malaysia pertains to the responding exporter. However, a major portion of the imports represents exports made by other exporters. This gets clearly established by evidence put on record which clearly shows that these companies are selling their product in the Indian market.
- (f) The petitioner therefore requests the Designated Authority to kindly correlate the import transactions reported in Indian customs data with the

export transactions reported by the exporter and (i) ascertain how the volume and value compares in these transactions, (ii) exclude only those transactions which pertain to the exporter for whom de-minimus dumping margin has been determined. Only thereafter the Designated Authority can assess the volume of dumped exports by other parties.

- (g) Malaysia should be included as one of the subject countries.
- (h) Anti-dumping duty may be imposed as fixed quantum of anti-dumping duty (fixed form of duty), expressed in US\$/kg.
- (i) The Authority may specify in the Duty Table that the product under consideration attracts duty, regardless of the customs classification under which the goods are being imported.

## **L.2 Submissions by exporters and other interested parties**

127. Following comments have been made by the exporters and other interested parties, in response to the disclosure statement. For the sake of brevity, comments made by the parties, to the extent they are reiterations of the earlier submissions and already dealt with hereinabove, have not been repeated hereunder:

- (a) Products containing solid wood core cannot be included when it does not even form a part of the application by the applicant.
- (b) *What has remained unaddressed is the fact that the Domestic Industry itself has restricted the scope of the investigation to the wooden flooring which is made of only fibre board (i.e., HDF or MDF) as the middle layer. This is clear beyond any doubt from Annexure 1.7 of the application.*
- (c) *The disclosure statement seeks to cover up the mischief of the applicant by referring the letter as PCN system cannot override the admission of exclusion of certain products in application and that even the response to PCN notice nowhere requires the interested parties to submit information on the basis of material used for the middle layer (the core) of the product.*
- (d) *Initiation cannot cover products for which no written application has been made by the applicant in terms of Rule 5(3) of the Anti-dumping Rules.*
- (e) Inclusion of the two-layer products not having real wood as bottom layer will also be tantamount to increasing the scope of the PUC for which admittedly no application has been filed.
- (f) Designed products are not part of product under consideration as such products were/are not manufactured by the Domestic Industry. Even from the submissions of the Domestic Industry, finding mention at para xvi on page 9 of the disclosure statement, it is clear that Domestic Industry has not produced and sold products having inlay work.

- (g) Domestic Industry has not produced any product above the width of 15 mm in the POI, the same should be kept out of the scope of the product under consideration.
- (h) Wooden tiles are neither a product of engineered flooring nor manufactured by the Domestic Industry. It has been the consistent practice of the Authority to exclude the products not manufactured by the Domestic Industry.
- (i) No comments can be offered on the injury parameters in the absence of segregated import data and the same shall be made available to the interested parties.
- (j) A sole producer cannot cater the needs of the market and this issues raised by the interested parties remains unaddressed.
- (k) The alleged injury is due to the high fixed costs due to unutilized capacities.
- (l) Exotic Décor has been selling the PUC in Indian market since 2007 when there was no other company in India. Now since one producer has come up, dumping is not a reasonable consideration.
- (m) The Authority should take into consideration as how would the anti-dumping law would protect the products which are under PUC, but of higher value then the domestic industry by subjective countries.
- (n) The companies who have not even supplied into India has more margin range as compared to the ones who have a major share in India.
- (o) PUC has been compared to some selective kind of material from the import data and the same has been manipulated.
- (p) Sales of the domestic suppliers against many importers are already high and we are unable to compete with such a large company.
- (q) It was illogical to set up a plant with a huge capacity which is way more than the demand in India.
- (r) It would be unjustified to several small importers and their employees, who survive their livelihood of the material which is under PUC
- (s) The injury parameters of domestic industry not only show a positive trend but significant increase also.
- (t) Market share of DI has increased as against decrease in market share of subject and other imports.
- (u) The feasibility report is unrealistic as it must have assumed that the domestic industry would conquer the whole Indian market within three years.
- (v) The capacity was increased in the second year even when its capacity utilization was only 12% in the first year.
- (w) The other factors have not been adequately analyzed in the feasibility report.

### L.3 Examination by the Authority

128. The Authority notes that most of the submissions are repetitive in nature and were already examined suitably, adequately and appropriately addressed earlier in the disclosure statement. The findings above ipso facto deals with these arguments of the interested parties. Further, the authority has examined submissions of interested parties herein below:

- (a) With regard to the concern raised by the interested parties concerning disclosure of essential facts, it is noted that most of the facts relevant and raised during the course of investigation, have been addressed at appropriate places in these findings.
- (b) With regard to the concern raised by the interested parties concerning product under consideration which is defined in the initiation notification as, "Veneered engineered wooden flooring" excluding following kind of floorings:
  - i. laminated flooring,
  - ii. flooring not made of wood,
  - iii. flooring not having veneered top layer,
  - iv. solid wood flooring
- (c) Veneered Engineered Wooden Flooring typically has three layers of wood viz "Top Layer", "Middle Layer" and "Bottom Layer". Top Layer is real wood which gives attractive look (owing to its wooden texture) and additional strength to overall construction. It can be made of one strip of wood, two strips of wood or three strips of Wood. Middle Layer is real wood, which forms core of the overall construction. It can be made of either "solid wood" or "fibre board (MDF/HDF)". Bottom Layer is real wood which provides support to the overall construction. The PUC can however be of two or three layers also. In comments to the disclosure statement, most of the interested parties have stated that the petitioner while defining the product under consideration in their petition and addressing it at Annexure 1.7 concerning detailed methodology used to compile import data for PUC, has stated that the description may contain such wood like pine wood and other such specification like number of strips unit to PUC and the type of core could be either HDF or MDF. It was further stated that the PUC has a core of fibre board. Based on the examination of the issues raised by the interested parties on comments to the disclosure statement, the product under consideration has now been construed as "*Veneered Engineered Wooden Flooring typically has three layers of wood viz "Top Layer", "Middle Layer" and "Bottom Layer". Top Layer is real wood which gives attractive look (owing to its wooden texture) and additional strength to overall construction. It can be made of one strip of wood, two strips of wood or three strips of Wood. Middle Layer which forms core of the overall construction and it can be made of "fibre board (MDF/HDF)". Bottom Layer is real wood which provides support to the overall construction. The PUC can however be of two or three layers also*".
- (d) With regard to the allegation of the Domestic Industry that Chinese and Malaysian Authorities are giving subsidy to the producers / exporters of the subject goods, it is noted that in this present investigation, the dumping effects which may lead to the injury to the domestic industry has

been examined based on the petition filed by the domestic industry, however domestic industry may file separate application to address the subsidy causing injury, if any from these sources.

- (e) With regard to the allegation of domestic industry concerning non-participation of Unilin SRO Czech Republic in the present investigation, it is noted that they did not participate in the subject investigation as they have not exported the subject goods to India.
- (f) With regard to determination of injury and dumping, the Authority notes that verified information has been taken on board and only undumped volume of imports has been considered for dumping and injury analysis.
- (g) As regards the request for extension of two week time for filing the comments on the disclosure statement, it is noted that these anti-dumping investigations are time bound and the issues raised during the course of investigation have already been addressed at relevant places in these findings. In view of time bound investigation, the authority did not grant further extension for filing comments on disclosure statement.
- (h) As regards the filing of importer's questionnaire by Anika Global in the subject investigation, it is noted complete importer questionnaire was not filed, however, the issues raised by them have been addressed at appropriate places in these findings.
- (i) As regards, the issue concerning plant capacity which is about ten lakhs sqm whereas the market as per import data is under four lakhs sqm, it is noted that in order to have the fair assessment, the NIP has been arrived after normation in order to avoid any undue advantage to the domestic industry because of unrealistic capacity assessment. With regard to huge capacity of the plant and its possible adverse impact on the cost and NIP, it is noted that the authority has determined NIP as per principles outlined in Annexure-III of the Anti-Dumping Rules, 1995.
- (j) Based on the examination of comments on disclosure statement by the interested parties, the product under consideration has now been construed as "*Veneered Engineered Wooden Flooring typically has three layers of wood viz "Top Layer", "Middle Layer" and "Bottom Layer". Top Layer is real wood which gives attractive look (owing to its wooden texture) and additional strength to overall construction. It can be made of one strip of wood, two strips of wood or three strips of Wood. Middle Layer which forms core of the overall construction and it can be made of "fibre board (MDF/HDF)". Bottom Layer is real wood which provides support to the overall construction. The PUC can however be of two or three layers also*". Accordingly, volume of imports from subject countries has been considered for determination of both dumping and injury analysis.

## **Conclusions**

129. After examining the issues raised, submissions made and view expressed in oral hearing, by the interested parties and facts made available before the Authority as recorded in this finding, the Authority concludes that:

- I. The product under consideration has been exported to India from China PR, EU and Indonesia below its normal value, resulting in dumping.
- II. The domestic industry has suffered material injury due to dumping of the product under consideration from the subject countries.
- III. The material injury has been caused by the dumped imports from the subject countries.
- iv. Imports by UAB Boen, EU, has not caused injury to the domestic industry, since both the dumping and injury margins are negative.
- v. Imports from Tarkett Polska Sp.Zoo, Poland (producer) and Tarkett, Hogkong (exporter) has not caused injury to the domestic industry since, the injury margin is negative.
- vi. The Authority in view of the undumped imports from Malaysia does not consider it appropriate to recommend levy of an Antidumping Duty on the subject goods from Malaysia and hereby terminates the investigation against it in accordance with Rule 14(b), (e) read with 11(ii) of AD Rules.

#### **N. Indian Industry's Interest & Other Issues:**

130. The Authority notes that the purpose of anti-dumping duties, in general, is to eliminate injury caused to the Domestic industry by the unfair trade practices of dumping, so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Imposition of anti-dumping measures would not restrict imports from the subject countries in any way, and, therefore, would not affect the availability of the products to the consumers.
131. It is recognized that the imposition of anti-dumping duties might affect the price levels of the product manufactured using the subject goods and consequently might even have some influence on relative competitiveness of these products. The domestic industry submitted that imposition of proposed duty shall have insignificant cost implications for the consumer. Therefore, fair competition in the Indian market will not be reduced by the anti-dumping measures, particularly if the levy of the anti-dumping duty is restricted to an amount necessary to redress the injury to the domestic industry. On the contrary, imposition of anti-dumping measures would remove the unfair advantages gained by dumping practices, would prevent the decline of the domestic industry and help maintain availability of the wider choice to the consumers of the subject goods.

#### **O. Recommendations**

132. After examining the submissions made by the interested parties and issues raised therein; and considering the facts available on record, the Authority concludes that:

- i. The product under consideration has been exported to India from subject countries below their normal values.
- ii. The domestic industry has suffered material injury.
- iii. Material injury has been caused by the dumped imports of subject goods from subject countries, except the imports from UAB Boen, EU and Tarkett Polska Sp. Zoo, Poland (producer)/ Tarkett ,Hongkong (exporter).

133. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the domestic industry, exporters, importers and other interested parties to provide positive information on the aspects of dumping, injury and the causal link. Having initiated and conducted investigation into dumping, injury and the causal link thereof in terms of the AD Rules and having established positive dumping margins as well as material injury to the domestic industry caused by such dumped imports, the Authority is of the view that imposition of definitive anti-dumping duty is required to offset dumping and consequent injury. Therefore, the Authority considers it necessary to recommend imposition of definitive anti-dumping duty on imports of the subject goods from subject countries in the form and manner described hereunder.

134. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of definitive anti-dumping duty equal to the lesser of the margin of dumping and the margin of injury, so as to remove the injury to the domestic industry. Accordingly, definitive antidumping duty as per amount specified in the table below is recommended to be imposed from the date of the Notification to be issued by the Central Government, on all imports of the subject goods originating in or exported from subject countries.

**Duty Table**

Sl. No (1)	Sub-heading (2)	Description of Goods (3)	Country of Origin (4)	Country of Export (5)	Producer (6)	Exporter (7)	Amount (8)	Unit (9)	Currency (10)
1	44091010 and 44092990	Veneered Engineered Wooden Flooring	European Union	European Union	UAB BOEN	UAB BOEN	Nil	Sqm	US\$
2	44091010 and 44092990	Veneered Engineered Wooden Flooring	European Union	Hong Kong	Tarkett Polska Sp. Zoo	Tarkett, Hong Kong	Nil	Sqm	US\$

3	44091010 and 44092990	Veneered Engineere d Wooden Flooring	European Union	European Union	Any	Any	6.91	Sqm	US\$
4	44091010 and 44092990	Veneered Engineere d Wooden Flooring	European Union	Any country other than those subject to Anti- dumping Duty	Any	Any	6.91	Sqm	US\$
5	44091010 and 44092990	Veneered Engineere d Wooden Flooring	Any country other than those subject to Anti- dumping Duty	European Union	Any	Any	6.91	Sqm	US\$
6	44091010 and 44092990	Veneered Engineere d Wooden Flooring	Indonesi a	Indonesia	Any	Any	1.21	Sqm	US\$
7	44091010 and 44092990	Veneered Engineere d Wooden Flooring	Indonesi a	Any country other than those subject to Anti- dumping Duty	Any	Any	1.21	Sqm	US\$
8	44091010 and 44092990	Veneered Engineere d Wooden Flooring	Any country other than those subject to Anti- dumping Duty	Indonesia	Any	Any	1.21	Sqm	US\$

9	44091010 and 44092990	Veneered Engineered Wooden Flooring	China PR	China PR	Any	Any	0.56	Sqm	US\$
10	44091010 and 44092990	Veneered Engineered Wooden Flooring	Any country other than those subject to Anti- dumping Duty	China PR	Any	Any	0.56	Sqm	US\$
11	44091010 and 44092990	Veneered Engineered Wooden Flooring	China PR	Any country other than those subject to Anti- dumping Duty	Any	Any	0.56	Sqm	US\$

135. Landed value of imports for the purpose of this Notification shall be the assessable value as determined by the Customs under the Customs Act, 1962 (52 of 1962) and includes all duties of customs except duties under sections 3, 3A, 8B, 9 and 9A of the said Act.

136. An appeal against the order of the Central Government arising out of this finding shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act.

**(Sunil Kumar)**  
**Additional Secretary & Designated Authority**



