

No.15/28/2013-DGAD
GOVERNMENT OF INDIA
MINISTRY OF COMMERCE & INDUSTRY
DEPARTMENT OF COMMERCE
(DIRECTORATE GENERAL OF ANTI-DUMPING & ALLIED DUTIES)
Jeevan Tara Building, 4th Floor, 5, Parliament Street, New Delhi-110001

Dated the 17th August, 2015

NOTIFICATION

(Final Findings)

Subject: Sunset Review (SSR) of anti-dumping duty imposed on the imports of Plain Medium Density Fibre Board originating in or exported from China PR, Malaysia, Thailand and Sri Lanka-reg.

A. BACKGROUND OF THE CASE

1. No.15/28/2013-DGAD:- Whereas 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 Duty on Dumped Article and for Determination of Injury) Rules, 1995 (hereinafter referred to as the AD Rules), the Designated Authority (hereinafter also referred to as the Authority) had initiated the original investigation concerning imports of "Plain Medium Density Fibre Board " (hereinafter also referred to as the subject goods), originating in or exported from the China PR, Malaysia, New Zealand, Thailand and Sri Lanka vide notification no.14/12/2007-DGAD dated 6th June, 2008. The Authority issued its Final Findings vide Notification No. 14/12/2007- DGAD dated 26th August, 2009, recommending to the Central Government imposition of anti dumping duty on the imports of the subject goods originating in or exported from China PR, Malaysia, Thailand and Sri Lanka (hereinafter also referred to as the subject countries). Definitive anti dumping duties were imposed by the Central Government vide Finance Notification No. 116/2009-Customs dated the 8th October, 2009 on all imports of the subject goods originating in or exported from the subject countries.
2. Whereas, in terms of the Act and the Rules, the anti dumping duty imposed shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition.
3. And whereas, the Authority is required to review, on the basis of a duly substantial request made by or on behalf of the domestic industry within a reasonable period of time prior to the date of the expiry of the measure as to whether the expiry of duty is likely to lead to continuation or recurrence of dumping and injury.
4. Whereas, M/s Greenply Industries Ltd. and Mangalam Timber Products Ltd. (hereinafter also referred to as the applicants or the petitioners), major producers of Plain Medium Density Fibre Board in India approached the Authority with a duly substantiated application requesting for sunset review of the anti dumping duties earlier imposed on the imports of the subject goods originating in or exported from the subject countries and seeking continuation of anti dumping duty on the imports of the subject goods originating in or exported from the subject countries. The request was based on the grounds that dumping has continued in spite of imposition of anti dumping duty on the imports of the subject goods originating in or exported from the subject countries and the domestic industry continues to suffer injury on account of dumping from the subject countries as the form and quantum of anti dumping duty in force has been insufficient. The applicants further argued that expiry of the measure against the subject countries is likely to result in continuation or recurrence of dumping and injury to the domestic industry. The applicants have identified other companies that are holding capacities to manufacture Plain Medium Density Fibre Board, namely, Rushil Décor Limited, Shirdi Industries Limited, Balaji Action Buildwell and Nuchem Limited and further stated that Nuchem Limited and

another company, namely, Bajaj Eco-Tec Products Limited, are no longer producing the product concerned.

5. In view of the duly substantiated application containing prima facie sufficient evidence of dumping and injury filed by the applicants as the domestic industry and in accordance with Section 9A(5) of the Act, read with Rule 23 of the Anti-dumping Rules, the Authority initiated a sunset review investigation vide Notification No. 15/28/2013-DGAD dated 18th February, 2014 to review the need for continued imposition of the anti-dumping duties in respect of the subject goods, originating in or exported from the subject countries, and to examine whether the expiry of the said duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry.
6. The scope of the present review covers all aspects of the previous investigations concerning dumping of the subject goods, originating in or exported from the subject countries and consequent injury to the domestic industry.

B. PROCEDURE

7. The procedure described below has been followed in this investigation:
 - i. The Authority notified the Embassies of the subject countries in India about the receipt of application alleging dumping of the subject goods originating in or exported from the subject countries before proceeding to initiate the investigation in accordance with the Antidumping Rules.
 - ii. The Authority issued a public notice No. 15/28/2013-DGAD dated 18th February, 2014 published in the Gazette of India, Extraordinary, initiating sunset review anti dumping investigation concerning imports of the subject goods, originating in or exported from the subject countries.
 - iii. The Authority forwarded a letter along with copy of the public notice to all the known exporters and other interested parties/industry associations (whose details were made available by the domestic industry) and gave them opportunity to make their views known in writing within the prescribed time limits in accordance with the anti-dumping rules.
 - iv. The Authority provided copy of the non-confidential version of the application to the known exporters from the subject countries and the Embassies of the subject countries in India in accordance with Rules 6(3) supra. A copy of the non-confidential version of the application was also made available in the public file and provided to other interested parties, wherever requested.
 - v. Copy of the letter and the exporter questionnaires sent to the exporters/producers in the subject countries were also sent to the Embassies of the subject countries in India along with a list of known exporters /producers with a request to advise the known exporters / producers from the subject countries as also other exporters / producers from the subject countries to respond to the questionnaires within the prescribed time limit from the date of issue of the letter in accordance with the Rules 6(2) & 6(4).
 - vi. The Authority sent exporter's questionnaires to elicit relevant information to the following known exporters in the subject countries in accordance with the Anti-dumping Rules:
 - i. M/s Tomrich International Trading Limited, Shanghai, China PR
 - ii. M/s Nanjing ETAI Trading Co Limited, China PR
 - iii. M/s Linyi Baideli International Trade Co. Ltd, China PR
 - iv. M/s Linyi Hongfu Timber Co. Ltd, China PR
 - v. M/s Wenzhou Timber Group Co. Ltd., China PR
 - vi. M/s Shouguang Guihe Economic and Trade Co. Limited, China PR
 - vii. M/s Zhanjiang Kingstar Building Material Co. Limited, China PR
 - viii. M/s Guangdong Weihua Holding Co. Ltd., China PR

- ix. M/s Linyi Baideli International Trade Co. Ltd., China PR
 - x. M/s Shunlong MDF-board Co. Ltd, China PR
 - xi. M/s Shanghai Sindo Panel Co., Ltd, China PR
 - xii. M/s Shuyang New Concept Wood Co., Ltd, China PR
 - xiii. M/s Shouguang Wanda Wood Industry, China PR
 - xiv. M/s Dongwha Fibreboard Sdn. Bhd., Malaysia
 - xv. M/s Daiken Sarawak Bdh. Sd., Malaysia
 - xvi. M/s Evergreen Fibre Berhad (JB) Sdn. Bhd.
 - xvii. M/s Evergreen Fibre Berhad (EFB)
 - xviii. M/s Robin Resources (Malaysia) Sdn. Bhd, Malaysia
 - xix. M/s Segamat Panel Boards Sdn Bhd., Malaysia
 - xx. M/s Advance Fibre Co., Thailand
 - xxi. M/s Khon Kaen MDF Board, Thailand
 - xxii. M/s Vanachai Panel Industries Co. Ltd, Thailand
 - xxiii. M/s Siam Fibreboard Co. Limited, Thailand
 - xxiv. M/s Metro Fiber Co. Ltd, Thailand
 - xxv. M/s Vanachai Group Public Co. Ltd, Thailand
 - xxvi. M/s Metro M.D.F. Co. Ltd, Thailand
 - xxvii. M/s Merbok MDF Lanka Pvt. Limited, Sri Lanka
- vii. Response to the exporter's questionnaire along with legal submissions were received from following producers/ exporters/traders from Malaysia and Sri Lanka:
- a. M/s Merbok MDF Lanka (Private Ltd), Sri Lanka
 - b. M/s Dongwha MDF (M) Sdn. Bhd., Malaysia
 - c. M/s Dongwha Global Sales Sdn. Bhd., Malaysia
 - d. M/s Robin Resources (Malaysia) Sdn Bhd., Malaysia
- viii. The Authority forwarded a copy of the public notice to the following known importers/consumers of the subject goods in India (whose names and addresses were made available to the Authority by the applicants) and advised them to make their views known in writing within the prescribed time limit in accordance with Rule 6(4):
- i. Ply Point, Kerala
 - ii. Jacsons Veneers and Panels P. Ltd, Kerala
 - iii. Label Sales Corpn, Kerala
 - iv. Kalinga Imports & Exports P. Ltd, Kerala
 - v. Srivari Traders, Tamil Nadu
 - vi. Victory Plywood Distributors, Kerala
 - vii. Thamarapally Brothers, Kerala
 - viii. Mathewsons Exports & Imports P. Ltd, Kerala
 - ix. R.J. Metals, Kerala
 - x. Feroke Boards Ltd, Kerala
 - xi. Krishna Plywoods, Tamil Nadu
- ix. Thamarappally Brothers Trading Private Ltd, Kochi filed questionnaire response as an importer.
- x. The Period of Investigation (POI) for the purpose of the present review investigation is 1st October, 2012 to 30th September, 2013. The examination of trends in the context of injury analysis covered the financial years 2010- 2011, 2011- 2012 and 2012- 2013 and the POI.
- xi. The import data for the period of investigation and preceding three years was obtained from Directorate General of Commercial Intelligence and Statistics (DGCI&S) and the same has been adopted for the purpose of the present investigation.
- xii. Exporters, producers, importers and other interested parties who have neither responded to the Authority nor supplied information relevant to this investigation have been treated as non-cooperating interested parties by the Authority.
- xiii. The Authority made available non-confidential version of the evidence presented by interested parties in the form of a public file kept open for inspection by the interested parties as per the Rules.
- xiv. The Authority has examined the information furnished by the domestic producers

- to the extent considered necessary on the basis of guidelines laid down in Annexure III of the Rules and worked out the cost of production and the non-injurious price of the subject goods in India so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.
- xv. In accordance with the Rules, the Authority provided opportunity to all interested parties to present their views orally in a public hearing held on 31st October, 2014. All the interested parties attending the hearing were requested to file written submissions/rejoinders of the views expressed orally. However, after the oral hearing and issuance of the Disclosure Statement on 03.08.2015, because of the sudden administrative exigency, a new officer was appointed as the Designated Authority. This development necessitated that a new public hearing be held by the new DA as per the judgement of the Hon'ble Supreme Court in the matter of Automotive Tyre Manufacturers Association (ATMA) vs Designated Authority, delivered by a Division Bench in Civil Appeal No. 949 of 2006 on 7-1-2011. The new oral hearing was, therefore, conducted by the new Designated Authority on 07.08.2015. All the interested parties attending the hearing were again requested to file written submissions/rejoinders of the views expressed orally.
 - xvi. Verification of the information and data submitted by the domestic industry and the responding exporters was carried out to the extent deemed necessary.
 - xvii. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.
 - xviii. Wherever an interested party has refused access to or has otherwise not provided necessary information during the course of the present investigation or has significantly impeded the investigation, the Authority has recorded its views/observations on the basis of the 'facts available' and treated such parties as non-cooperative.
 - xix. A Disclosure Statement containing the essential facts in this investigation which would have formed the basis of the Final Findings was issued to the interested parties on 03.08.2015. However, after the appointment of new Designated Authority, a new Disclosure Statement was issued on 11.08.2015, and the interested parties again submitted their comments on the new Disclosure Statement.
 - xx. The submissions made by the interested parties during the course of this investigation have been examined and addressed in this investigation to the extent found relevant.
 - xxi. The Central Government, at the request of the Authority, extended the time to complete the investigation up to 17.08.2015
 - xxii. *** in this Final Findings Notification represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
 - xxiii. The exchange rate for the POI has been taken by the Authority as Rs.56.89 = 1US\$.

C. SCOPE OF PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

Submissions made by the Domestic Industry

- 8. Following are the submissions made by the domestic industry with regard to the product under consideration (PUC) and the like article:
 - i. The product under consideration in the present investigation is Plain Medium Density Fibreboard having thickness of 6mm or more originating in or exported from China PR, Malaysia, Thailand and Sri Lanka.
 - ii. The present investigation is a sunset review investigation for continued imposition of anti dumping duty. Therefore, the product under consideration is the same, which has been in the original investigation.

- iii. The product is produced in two types, i.e., plain and laminated. MDF board is processed further, such as painted, laminated by veneer etc. to obtain laminated MDF Board. Product scope of the present petition does not include laminated MDF Board.
- iv. MDF has many advantages over plank wood, particle board, or high density fibre boards. It is very smooth because the wood fibres used in its manufacture are uniform and fine. This makes it having low "tear out," which means that when sawed, the end has a smooth cut instead of a jagged edge. This also means that a coat of primer and a couple of coats of paint take well, leaving an attractive, finished surface unlike other composite wood products. MDF also has a mild reaction to moisture, meaning it will not warp or swell in high-humidity applications like a bathroom cabinet.
- v. MDF is appropriate for many applications, from cabinetry to moulding, because it is smooth, uniform, and won't warp. Builders use MDF in many capacities such as in furniture, shelving, laminate flooring, decorative moulding, doors, etc. They value MDF for its insular qualities in sound and heat. Also, it can be nailed, glued, screwed, stapled or attached with dowels, making it as versatile as plank wood. Usually, people working with MDF use a carbide saw fitted with a vacuum to reduce the amount of airborne dust.
- vi. Reconstituted, engineered wood products like MDF are often covered in a veneer or laminate. These thin layers of vinyl or real wood disguise the MDF, especially along visible edges. Some people prefer using MDF over regular lumber because it has a lower impact on the environment. MDF is solely made from waste products, the leftover scraps that would otherwise be dumped in a landfill. This attraction has helped it gain popularity among homeowners. It is now available not just to contractors but many home improvement centres and lumberyards stock it in sheets for the general public.
- vii. Large-scale production of MDF began in the 1980s. Its name is derived from the distinction in densities of fibreboard. MDF typically has a density of 600-800 kg/m³, in contrast to particle board (160-450 kg/m³) and to high-density fibreboard (800-1450 kg/m³). Similar manufacturing processes are used in making all types of fibreboard.
- viii. MDF is also known as Customwood or Craftwood.
- ix. MDF is one of the four main categories of wood based panels - laminated boards, particle boards, fibreboards and oriental strand boards. These different types of boards are distinguished by the level of conversion of the wood raw material into veneers, particles or fibres. MDF is a type of fibreboard made from wood or other lignocellulosic materials, refined into fibres and reconstituted with a resin binder (glue) carried out at elevated temperatures. The raw wood material can be in almost any form or specie and in almost any mixture such as low grade wood specie, branches, small diameter trees, hardwood, softwood, millwaste and forestry waste chips. As such, the recovery rate of the raw material is almost 100%.
- x. In MDF individual raw wood elements cannot be identified in the finished board. This is due to the fibreizing process. MDF has a homogeneous structure with uniform texture and properties throughout. There are no identifiable grains or knots seen at the edge, end or face nor any internal voids or pits or variation in surface hardness.
- xi. MDF is easier to machine than natural wood and can be laminated and painted to produce almost any board finish. It can be sawed and shaped very evenly and smoothly - a process which cannot be achieved to the same degree with particle boards. MDF can be nailed, stapled, routed, sanded and screwed just like any natural wood product. It has the mechanical and physical characteristics approaching the levels associated with solid wood and in many its applications can be used as an ideal substitute for solid wood. Rubber wood MDF is particularly light in colour which makes it especially easy to paint and permits the application of very thin laminates without the underlying board colour darkening the laminate.
- xii. Thin MDF boards are an ideal alternative to plywood. Typical applications in furniture include drawer bottoms, backs of cabinets and centre panels in framed doors. In building interiors, thin MDF can be used for wall and ceiling panelling, as skins for flush doors, partitioning, office screens, lightweight doors and exhibition panelling. Given developments in High Moisture Resistant panel

boards, MDF is finding growing markets for exterior applications as well. Thin MDF has found its way into novel applications such as shoe making, motor vehicle interior parts, toys, printed circuit board production and blades for electric fans. Due to its excellent acoustic properties, MDF is also being successfully used in Hi-Fi equipment.

- xiii. Thick MDF boards can be used in building as architectural features such as columns and archways where the warp resistance, torsional stability, screw-holding strength and edge finishing characteristics of MDF make it a good substitute for solid wood. Thick MDF is used as a core substrate material for panelling with veneers, printed surfaces, vinyl and low pressure laminates due to its dimensional stability and smoothness. Thick MDF can also be used for a wide range of furniture such as tables, cabinets, windows, doors, frames, handicraft items, display or exhibition stands and signs, ceiling, toys, carving, partitions, maritime applications and educational equipment. Thick MDF is also widely used as a base material for laminated and veneered wood products for flooring and wall panelling and for foil wrapped mouldings.
- xiv. MDF is easily shaped into almost any form and is commonly available in lengths up to 18 feet and, therefore, an excellent material for finished interior mouldings. MDF has a good bonding strength and resistance to compression, and so can be finished by a variety of secondary processes such as flooring, partitions and table tops. The complete versatility of MDF is yet to be utilized.
- xv. Plain Medium Density Fibreboard is normally produced and sold in standard sizes, and is used by cutting as per size and design requirement of the user. The standard thicknesses in which it is produced and sold are 4mm, 5mm, 9mm, 12mm, 15mm, 18mm, 25mm and standard size is 8'X4'. It can, however, be produced in the sizes as per the requirement of the customer.
- xvi. The subject goods are used in building and construction, furniture, industrial, handicrafts purposes, etc. The following are major application of subject goods:
 - a. Building and construction: Partition panel, inserts, panel insets for panel doors and flush doors shutters, cavity flooring, ceiling, flooring, panelling, door, moulding, cornice, pelmets, skirting, etc.
 - b. Furniture: Modular furniture, computer tables, work stations, cupboard shutters, duel desks for primary schools, TV cabinets etc.
 - c. Industrial: Laminate substrate, scientific instruments, musical instruments, stationery items, office equipments, speaker boxes, fridge & sewing machine tops, package, shoe heels, toys, sports goods, pool tables, cut-outs, photo lamination base, engineering drawing board, wall clock cabinets, pallet boxes for packing, mould and dies, skirting, cornices, handrails, clocks, trophies, blackboards, interior of buses and railway coaches, etc.
- xvii. There is no known difference in product under consideration produced by the Indian industry and exported from the subject countries. Product under consideration produced by the Indian industry and exported from the subject countries are comparable in terms of characteristics such as physical & chemical characteristics, manufacturing process and technology, functions and 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. Subject goods produced by the petitioner companies are and should be treated as like articles to the subject goods imported from the subject countries in accordance with the anti dumping rules.

Submissions by producers/exporters/importers/other interested parties

9. No relevant submission has been made by the producers/exporters/importers/other interested parties with regard to the scope of the product under consideration and the like article.

Examination by the Authority

10. The product under consideration in the original investigation and the present investigation is Plain Medium Density Fibre Board having thickness of 6 mm or more (hereinafter referred to as the product under consideration).
11. In the previous investigation conducted on the subject goods, the Authority had defined

the product under consideration and its scope as under:

“The product under consideration is Plain Medium Density Fibre Board also known as Plain MDF Board in market parlance. Plain Medium Density Fibre Board, or Plain MDF Board is a composite wood product made out of wood waste fibres glued together with urea formaldehyde resin or melamine resin, heat and pressure. It is widely used for partitions, Modular furniture, cabinets etc, due to its smooth and uniform finish. MDF Board is produced in plain form and lamination is additional processing which is done after production of Plain MDF Board. The laminated Medium Density Fibre Board (laminated MDF Board) is beyond the scope of product under consideration. The Authority in its Preliminary Findings considered the submissions received on the product under consideration and after due examination excluded the Plain Medium Density Fibre Board below 6MM thickness from the product scope and accordingly the product under consideration was considered as Plain Medium Density Fibre Board from 6 MM thickness and above and same is also considered in this investigations.

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

12. The scope of the product under consideration in the investigation shall remain the same as the scope of the product under consideration in the final findings earlier notified and ADD imposed. Nor any interested party has made any submissions for a need for any modification in the scope of the product under consideration.
13. The applicants submitted that the product manufactured by the domestic industry and the subject goods imported into India from the subject countries are like articles within the meaning of the Anti-dumping Rules, as there is no known difference between the subject goods imported from the subject countries and those produced by the domestic industry. The subject goods produced by the domestic industry and imported from the subject countries are comparable in terms of essential product characteristics, such as, physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. The consumers can use and are using the two interchangeably and that the two are technically and commercially substitutable.
14. No interested party has made any major submissions disputing the claim of the domestic industry nor shown any difference in the two.
15. After examination, the Authority concludes that the subject goods produced by the domestic industry are like article to that imported from the subject countries.

D. DOMESTIC INDUSTRY AND STANDING

Submissions by the Domestic Industry

16. The following are the submissions made by the domestic industry with regard to the scope of the domestic industry and standing:
 - i. The standing requirement is not relevant in a sunset review.
 - ii. Production of the petitioners command a major proportion in Indian production in the POI and, therefore, the petitioners constitute domestic industry.
 - iii. The domestic industry in the original investigation comprised M/s Shirdi Industries Limited, Mumbai and M/s Nuchem Limited, Faridabad. In the present case, Sunset Review petition was filed by Greenply Industries Limited and Mangalam Timber Products Ltd.
 - iv. For the present period, the production of the petitioners constitutes a major proportion of the total domestic production and thus petitioners constitute domestic industry.
 - v. The constitution of the industry has changed over the years. There are seven companies that have MDF plants. These are Nuchem Limited, Shirdi Industries Limited, Mangalam Timber Products Limited, Greenply Industries Limited, Balaji Action Buildwell, Rushil Décor Limited and Bajaj Eco Tec Products Limited. Two

companies have now closed production, namely, Nuchem limited, and Bajaj Eco Tec Ltd. Nuchem limited (manufacturing NUWUD MDF brand) shut down production post 2010-11. Bajaj Eco-Tec Products limited ceased producing the like product before the base year.

- vi. The Indian market for the product is quite significant. In the hope of good performance and profits, when the new companies entered the market, the earlier companies were still in existence. While some of the old companies have shut down production, now these new companies are struggling to survive in view of the dumped products.
- vii. It is also pointed out that investment in these plants requires 2-3 years time before the plant can commence commercial production. Thus, commencement of production by Balaji Action Buildwell in February 2011 and March 2013 and of Rushil Décor Limited in September 2013 should be seen as a decision of these companies to make investment 2-3 years before these periods.
- viii. Given that the product under consideration is an encouraged product, lots of investments have been attracted in this industry in the hope that this is a good market opportunity. However, dumping of the product in the country has been resulting in continued unviability of the operations to such an extent that the same is leading to plant closures. Thus, it can be considered that continued dumping of the product has caused injury to the domestic industry to such an extent that it has made domestic industry operations unviable to the extent of plant closures.
- ix. Standing is a requirement under Rule 5 which is clearly not applicable to Rule 23. Rule 23 (3) clearly provides that the provisions of rules 6, 7, 8, 9/10, 11, 16, 17, 18, 19 and 20 shall be mutatis mutandis applicable in case of review. Clearly, rule 5 has been excluded intentionally herein. Nevertheless, the petition contains sufficient information and establishes that the petitioners have requisite standing to file the present petition.
- x. With regard to the composition of the domestic industry, it may be noted that there is no legal provision stating that the composition of the domestic industry in an original investigation and review investigation should be the same. In fact, there is no such legal requirement for the reason that there can be material change in the industry structure over time period. The scope of domestic industry is required to be determined on the basis of facts prevailing during the period of investigation.

Submissions by the producers/exporters/importers/other interested parties

17. The following are the submissions made by the producers/exporters/other interested parties with regard to scope of the domestic industry and standing:
- i. With regard to petitioner's argument that standing is not required to be determined in a sunset review investigation, it is provided that as per Rule 23(1B), when a request for initiation of sunset review investigation is made by the domestic producers, the same is inevitably required to meet the criteria of standing as laid down under the Anti-dumping Rules, as mandated, that the written request by them is on or behalf of the domestic industry.
 - ii. Petitioners are under an obligation to establish standing and can not bypass rules since the request for initiation of current investigation was made by the petitioners.
 - iii. Standing is an inevitable criterion in sunset review investigations as the injury or the likelihood of injury can be examined for the domestic industry but not for any domestic producers.
 - iv. M/s Mangalam Timber Products Ltd was disqualified in the previous investigation on account of being an importer. Therefore, presently the information from M/s Mangalam Timber Products should be thoroughly examined as to when it stopped importing the goods and as to why it shall be treated as part of domestic industry.
 - v. Information from other remaining producers especially from Shirdi Industries, Nuchem and Balaji Action Buildwell must be obtained for a meaningful analysis and justifiable findings.

Examination by Authority

18. The Authority notes that Rule 2(b) of the Anti-dumping Rules provides as follows:

“(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 relate 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”

19. The Authority notes that the application was filed by M/s Greenply Industries Ltd and M/s Mangalam Timber Products Ltd. It is supported by Rushil Décor Limited and M/s Balaji Action Buildwell.
20. As regards the contention that petitioners’ are under an obligation to establish standing, the Authority notes that the production of the petitioners constituted a major proportion in Indian production and, therefore, standing requirement has been complied with.
21. As regards the contention concerning imports by M/s Manglam Timber Products Ltd in the previous investigation, the Authority notes that the issue of relationship is required to be seen in respect of POI now fixed by the Authority. Even if a company was treated ineligible at the time of previous investigation, the same does not ipso facto imply that the company should now be treated ineligible even in the present investigation as well. It is, however, noted that Mangalam Timber Products Ltd. has not provided all information necessary for verification of the information earlier provided by the company. The company requested the Authority to consider their financial data on the basis of information provided in the petition. The Authority, however, considers that mere providing information in the form and manner prescribed is insufficient for inclusion of a company within the scope of the domestic industry. The company is required to provide all relevant and necessary information to the Authority in support of the information earlier provided. This is all the more important in a situation where the information on record shows that the cost of production of the company is higher than other constituent of the domestic industry and company is suffering significant losses. The Authority is, therefore, constrained to exclude Mangalam Timber Products Ltd. from the scope of the domestic industry.
22. With regard to participation of Shirdi Industries Limited, Balaji Action Buildwell and Rushil Decor Limited, the Authority notes the letters supporting the extension of ADD have been submitted by them. However, while supporting the extension of ADD, these companies have not provided all the information which is relevant and necessary for inclusion of these companies as a part of the domestic industry. The Authority has, therefore, not considered Shirdi Industries Limited, Balaji Action Buildwell and Rushil Decor Limited as part of the domestic industry for the purpose of the present investigation.
23. Since production of M/s Greenply Industries Limited constitutes a major proportion in the Indian production, the Authority has considered M/s Greenply Industries Limited as the domestic industry for the purpose of the present investigation. M/s Greenply Industries Limited, therefore, constitutes domestic industry within the meaning of the Rules. The production figures of the domestic producers are as under:

SN	Particulars	Unit	2010-11	2011-12	2012-13	POI
A	<u>Petitioner</u>					
1	Greenply Industries Limited	CBM	***	***	***	***
	Total Petitioner	CBM	***	***	***	***
B	<u>Other Indian Producers:</u>					
2	Mangalam	CBM	***	***	***	***
3	Shirdi	CBM	***	***	***	***
4	Nuchem	CBM	***	-	-	-
5	Balaji Action Buildwell	CBM	-	-	***	***
6	Rushil Décor Limited	CBM	-	-	***	***

SN	Particulars	Unit	2010-11	2011-12	2012-13	POI
	Total Other Producers	CBM	***	***	***	***
C	Total Indian Production	CBM	1,10,746	1,84,899	2,35,501	2,54,284
D	Share of					
	Petitioner	%	22%	54%	58%	50%
	Other Producers	%	78%	46%	42%	50%

E. CONFIDENTIALITY

Submissions by the producers/exporters/importers/other interested parties

24. The exporters/importers/other interested parties have contended as follows:

- i. The present petition should be terminated on the grounds of excessive confidentiality.
- ii. Sales figures and market share were treated as non-confidential in original investigation and confidential herein.
- iii. Meaningful justification should be given or information should be declared as non-confidential at disclosure stage.
- iv. No soft and hard copy of original/raw import data from IBIS was provided to the interested parties. It is not indicated if it was provided to the Authority.
- v. There was no information provided with regard to production details of other domestic producers, sales volume information, stock and number of employees, copies of annual reports etc.

Submissions by the Domestic Industry

25. The Domestic Industry has made the following submissions:

- i. The Authority is empowered to reject the information only if it is 'satisfied' that an interested party is unwilling to make the information public. In the instant case, to show unwillingness on part of the domestic industry to provide non confidential version of the information filed, it first needs to be shown that such information has been denied by the domestic industry even when the same was in public domain.
- ii. No excessive confidentiality has been claimed. Petitioner has sought confidentiality only on such information which is business sensitive or disclosure of which shall adversely impact the business of the domestic industry.
- iii. It is also pointed out that neither Merbok nor any other exporter has disclosed any information on actual basis. Merbok is the sole exporter of the product under consideration from Sri Lanka and information with regard to exports are publically available both in terms of Sri Lanka customs and Indian customs data. Such being the case, there is no justification for confidentiality claims of volume and price of exports made by Merbok. It is clearly settled position that if the information is publically available, the same shall not be treated confidential. Thus, since there is only one exporter involved, Merbok could not have claimed its volume and value of exports to India as confidential information.
- iv. As regards the argument that no IBIS data was provided, the hard copies of the relied upon data were provided in the petition and there is no obligation of providing soft copies.
- v. As regards the production and other details of domestic producers, the relevant information is very much contained in the petition. It is adequate in the present case scenario. The actual information is confidential and, therefore, not publically disclosed. The Government of India has now recognized that quantitative statistics data in Annual Report is business sensitive information and has accordingly modified the reporting requirements for Annual Reports.

Examination by the Authority

26. With regard to confidentiality of information, the Authority examined the confidentiality claims of the interested parties. The Authority considers that any information which is by

nature confidential (for example, because its disclosure would be of significant competitive advantage to a competitor or because its disclosure would have a significantly adverse effect upon a person supplying the information or upon a person from whom that person acquired the information), or which is provided on a confidential basis by parties to an investigation shall, upon good cause shown, be treated as such by the Authority. Such information can not be disclosed without specific permission of the party submitting it.

27. The Authority has considered the claims of confidentiality made by the petitioner and the opposing interested parties and on being satisfied about the same, the Authority has allowed the claim on confidentiality. The Authority made available to all interested parties the public file containing non-confidential version of evidences submitted by various interested parties for inspection, upon request as per Rule 6(7).

F. MISCELLANEOUS SUBMISSIONS

Miscellaneous submissions made by the domestic industry:

28. The following miscellaneous submissions have been made by the domestic industry:
- i. As regards raising the issue of benchmark form of duty is concerned, it is submitted that the issue had been raised earlier and during the course of the application pending before the Authority, it was withdrawn as the Sunset Review was soon becoming due.
 - ii. The petition is complete on all accounts and the allegations of deficiencies in application are without any basis.
 - iii. All relevant non-confidential summaries have been provided as per the best abilities of the applicants.
 - iv. Import data has been submitted with the petition.

Miscellaneous submissions made by producers/exporters/importers and other interested parties

29. The following miscellaneous submissions have been made by the producers/exporters/importers and other interested parties:
- i. The raising of benchmark issue after five years of duty is devoid of merit. The Authority must have been approached as per Rule 23.
 - ii. The domestic industry has filed a deficient application to the extent of certificate of true and complete information, authorization letter, non-confidential version of Part VI costing information, production details of the so-called domestic industry as well as other domestic producers so as to qualify standing in terms of Anti Dumping Rules, purchase policy, sales policy, store accounting policy, quality control policy, audited annual accounts for POI as preceding 3 years, Proforma IV-A and Proforma IV-B, raw import data along with the basis of segregation of the PUC import data, names and addresses of the importers and users in India, and those of the producers and exporters in the subject countries, list of articles the petitioner is capable of producing, evidence supporting the calculation of normal value, evidence in support of adjustment claimed while calculating export price etc.
 - iii. The application should be rejected as critical information in the form of relevant non-confidential summaries was not provided.
 - iv. Import data provided by the applicant is not sufficient. A soft copy in excel format should be provided. Also, basis of segregation of subject goods from raw data should be provided.

Examination by the Authority

30. The Authority has carefully examined the submissions made by various interested parties and holds as follows:
- i. As regards the issue of changing the form of duty from benchmark to fixed quantum, the Authority notes that the form of duty is decided by the Authority after considering facts of the case, submissions by the interested parties and practice being followed

by the Authority. The interested parties are free to advance their arguments in this regard.

- ii. As regards the argument of deficient application submitted by the applicant is concerned, the Authority notes that the petition contains all relevant information necessary for initiation of investigations. The NCV of the petition does not contain information which is confidential business information in accordance with para-7 of the Rules.
- iii. As regards the soft copy of import data and methodology for segregation, the Authority notes that the relevant requirement in the application proforma is volume and value of imports of the product under consideration. Information on other products not forming part of the product under consideration is not relevant to the Authority and, therefore, the petition need not include import data of products not under consideration.
- iv. The Authority clarifies that the petition contains all information relevant for the purpose of initiation.

G. ASSESSMENT OF DUMPING – METHODOLOGY AND PARAMETERS

Normal Value, Export Price and Determination of Dumping Margin

Submissions by the Domestic Industry

31. Following are the submissions made by the domestic industry:

- i) China is a non-market economy. No country has granted market economy country status to China. None of the Chinese producers can satisfy market economy status. This treatment is in line with the position taken by the Authority in previous cases and by investigating Authorities in other countries. Chinese producers' cost and price cannot be relied upon for determination of normal value.
- ii) Market economy status cannot be granted unless following conditions are fulfilled:
 - 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 status cannot be given unless the responding exporter establishes that their books are audited in line with the international accounting standards.
 - d. Market economy status cannot be granted even if one of the parameters is not satisfied.
 - e. The onus/obligations to establish market economy status is onto responding Chinese exporters and onto the Designated Authority.
 - f. Market economy status cannot be granted unless the responding company and its group as a whole make the claim.
 - 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.
- iii) The factual matrix remains the same since the original investigations. Chinese companies should be considered as not entitled for market economy treatment.
- iv) In the present case, normal value cannot be determined on the basis of price or constructed value in a market economy third country for the reason that the relevant information is not publicly available. The petitioner has not been able to procure such information from a producer in a market economy third country. Petitioner has determined Normal Value in China on the basis of cost of production in India, duly adjusted.
- v) Normal value has also been constructed for Malaysia and Thailand since price of the like article in the domestic markets of these countries is not publicly available. Further, efforts have been made to get evidence of price of product

- concerned in these markets and published source. However, the petitioner was unable to get any substantial evidence in this regard.
- vi) Normal value has been constructed for Sri Lanka. Efforts have been made to get evidence of price of product concerned in the domestic market of Sri Lanka. Efforts have also been made to get any evidence of price from published sources. The petitioner has, however, not been able to get any evidence of price in the domestic market of Sri Lanka. Further, the previous findings of the Authority show that the exporter did not recover its cost of production on exports of fibreboards to India.
 - vii) With regard to Merbok, the company misled the Authority at the time of original investigation, which had led to significantly lower dumping margin in respect of exports made by this company. Resultantly, continued dumping from Sri Lanka is one of the reasons for injury being suffered by the Indian industry.
 - viii) Acceptance of price undertaking on one hand and dumping margin determined by the Authority on the other hand led to unreasonably low dumping margin in the final findings. On comparison of normal value in the present case and fibre board below 6 mm case, it is easy to perceive that both pertain to the same producer and the only difference in the two products is that the product under consideration in one case is below 6mm, while the product under consideration in other case is above 6mm. Despite this, the significant dumping margin determined in the two cases makes it evident that exporter materially misled the Authority and was awarded significantly low dumping margin which caused significant injury to the domestic industry.
 - ix) The exporters from the subject countries are continuing to dump the subject goods in the Indian market. The dumping margin is not only above de-minimis but also significant.
 - x) To ensure price comparability, normal value and export price must be at the same level of trade and due allowances for any differences that affect price comparability must be made in accordance with the provisions of the Rules.
 - xi) M/s Robin Resources should be investigated. This is the established practice of the Authority to determine dumping margin for all producers/exporters who are before the Authority. In this regard, the Final Finding in the Sunset Review Investigation of Polyvinyl Chloride (PVC) Suspension Grade originating in or exported from Taiwan, China PR, Indonesia, Japan, Korea RP, Malaysia, Thailand and USA is referred to and relied upon, where the Authority determined dumping margin for exporters who were awarded zero duty in the original investigation.
 - xii) With regard to allegation that petitioner's claim of normal value is highly exaggerated and unrealistic, domestic industry has determined normal value based on positive evidence.
 - xiii) With respect to the argument that injury margin and dumping margin should be calculated thickness wise and grade wise, the exporters have not established that the cost of production and selling price varies significantly based on thickness and grade. The import data does not establish a consistent difference on the basis of these parameters. Unless the exporters establish a consistent difference in the costs and prices on the basis of grade and thickness, the Authority should adopt weighted average as the basis.
 - xiv) With respect to argument about basis of calculation of normal value for Malaysia, the exporters are required to establish that their questionnaire responses are required to be accepted. Unless it is demonstrated that questionnaire responses are complete and unless the accuracy and adequacy of the data is established, the dumping margin should not be based on the questionnaire response.
 - xv) The Authority did not accept the interest costs of the exporter from Sri Lanka at the time of investigations relating to thin MDF (MDF below 6mm). That investigation being subsequent investigation, the Authority should follow the same approach in the present case as well.
 - xvi) The questionnaire response of Dongwa is grossly incomplete, as all companies engaged in the production of the product under consideration have not filed questionnaire response. The Authority should not determine individual dumping margin for a producer-exporter without complete questionnaire response from all producers in that country. This is the established practice of the Authority.

Submissions by producers/importers/exporters and other interested parties:

32. Following are the submissions made by the producers/exporters/importers/other interested parties in this regard:

- i. The injury margin and dumping margin should be calculated thickness-wise and grade-wise so as to depict the clear picture in the context of the price behavior of the exporters in their domestic market and export market.
- ii. The applicant has incorrectly calculated normal value for Malaysia based on domestic industry's raw material price and consumption norms. It should be calculated considering its actual raw material price and consumption norms.
- iii. The details of exports to India since 2009-10 have been provided now by M/s Merbok MDF Lanka Pvt. Ltd. The year 2009-10 marked substantial decline in exports from Sri Lanka to India in view of imposition of provisional anti dumping duties on the product under consideration from the countries. The unreasonably high provisional duties impacted exports by Merbok to India.
- iv. In view of the de minimis dumping margin for the exporter in the previous investigation and the legal provisions of Section 9A (1) of Customs Tariff Act read with Rule 14(c) of the Anti dumping Rules, the inclusion of the exporter Robin Resources in the current sunset review investigation is without jurisdiction and that the exporter is required to be excluded from the purview of the current investigation.
- v. In view of the Rules it is very clear that the investigation for an exporter or producer shall be terminated as soon as the Authority determines that the dumping margin for an exporter or producer is less than 2% expressed as percentage of export price.
- vi. In view of the Panel report in the case of Mexico-Definitive Anti Dumping Measures on Beef and Rice, it is amply clear that the investigation is required to be terminated for an exporter or producer when there is a de minimis dumping margin for it and, therefore, the exporter Robin Resources is required to be excluded from the purview of the investigation.
- vii. Since there was no reference price prescribed for the exporter and no duty was levied on the exporter, there cannot be any sunset review against it.
- viii. The claim of normal value by the petitioner is highly exaggerated and unrealistic. The normal value constructed on the basis of higher cost of raw material would always be away and higher from the actual domestic prices prevalent in the domestic market in the subject countries. Therefore, the determination of normal value, export price and dumping margin should be based on actual information submitted to the Authority. There are significant differences in the raw material cost of the domestic producers and those of subject countries.

Examination by Authority

33. Under section 9A (1)(c), the normal value in relation to an article means:

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

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

34. M/s Robin Resources has submitted that the company should be excluded from sunset review investigation. The Authority considers that it is the consistent practice of the Authority to review all the aspects of the original investigation including scope of the domestic industry, dumping (including dumping margin), existence of injury to the domestic industry, injury margin etc. In addition to this, the Authority undertakes an examination of whether the expiry of such duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry. The Authority has been providing full opportunity to the interested parties to raise issues with respect to each and every aspect of the case. The Authority has also been considering and modifying the form and quantum of measures. The Authority, therefore, considers that where an exporter was awarded zero duty in an original investigation and is now found to be dumping and the same is likely to cause injury to the domestic industry, then duties must be imposed considering the dumping margin and injury margin found in the present review investigation period. It is also noted that the Authority has followed the relevant requirements of Article 2 and Article 3 of the ADA and relevant provisions of Indian Rules, even when the present investigation is a sunset review investigation. It is, therefore, appropriate to determine dumping margin and if the same is more than de-minimums, recommend anti dumping duty on such exporters.
35. As regards appropriateness of the price adjustments claimed by the domestic industry, the Authority notes that it is consistent with established practice. Further, the Authority has now determined dumping margin considering questionnaire response of the exporters wherever the same are complete.
36. The Authority sent questionnaires to the known exporters/producers from the subject countries, advising them to provide information in the form and manner prescribed. The following producers/exporters from subject countries have filed exporter's questionnaire response. The Authority has, therefore, considered individual dumping margin determination in respect of these producers-exporters only.
- a. M/s Merbok MDF Lanka (Private) Limited, Sri Lanka
 - b. M/s Dongwha MDF (M) Sdn. Bhd. , Malaysia
 - c. M/s Dongwha Global Sales Sdn. Bhd., Malaysia
 - d. M/s Robin Resources (Malaysia) Sdn Bhd., Malaysia
37. The Authority notes that M/s Dongwha MDF (M) Sdn. Bhd. (DMM) (producer) and Dongwha Global Sales Sdn. Bhd.(exporter) from Malaysia, two related entities, have also filed questionnaire response. From the questionnaire response of Dongwha Global Sales Sdn. Bhd., who is the trader/exporter of Dongwha MDF (M) Sdn. Bhd., the Authority notes that the exporter has procured the subject goods from M/s Dongwha MDF (M) Sdn. Bhd. amounting to 1,18,326 CBM. The exporter Dongwha Global Sales Sdn. Bhd. has exported the subject goods in the POI to India as well as other countries. The total export volume is 2,63,699 CBM, out of which the export to India is 1,266 CBM. The exporter Dongwha Global Sales Sdn. Bhd. has not provided complete information regarding the procurement of the balance quantity. Further, in its questionnaire response, M/s M/s Dongwha MDF (M) Sdn. Bhd. has mentioned that M/s Dongwha Fibreboard Sdn. Bhd. (DFB) is also indulged in domestic sales. DFB, a related company of DMM, has not filed any questionnaire response. Since DMM is selling the goods in the domestic market to two related companies and the value chain of the goods produced is not complete, the Authority, therefore, as per its practice, has not determined the individual dumping margin in respect of M/s M/s Dongwha MDF (M) Sdn. Bhd., Malaysia and M/s Dongwha Global Sales Sdn. Bhd., Malaysia.

Determination of Normal Value for China PR for all Exporters

38. The Authority notes that in the past three years, China PR has been treated as a non market economy country in anti-dumping investigations by India subject to rebuttal of the presumption by the exporting country or individual exporters/producers in terms of the AD Rules. As per Paragraph 8 of Annexure I of the AD Rules, the presumption of a non-market economy may be rebutted if the exporter(s)/producer(s) from China PR provide information and sufficient evidence on the basis of the criteria specified in sub paragraph (3) of Paragraph 8 and establish the facts to the contrary. The co-operating exporters/producers of the subject goods from China PR are required to furnish necessary information/sufficient evidence as mentioned in sub paragraph (3) of paragraph 8 in response to the

Market Economy Treatment questionnaire to enable the Authority to consider the following criteria as to whether:

- a. The decisions of concerned firms in China PR regarding prices, costs and inputs, including raw materials, cost of technology, 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.

39. The Authority sent copies of exporter's questionnaire and questionnaire on market economy treatment (MET) to exporters in China PR. However, no producer/exporter has claimed MET. In view of the above, the Authority considers it appropriate to proceed with para-7 of Annexure I to the Rules for determination of normal value in case of China PR which provides as under:

“In case of imports from non-market economy countries, normal value shall be determined on the basis if the price or constructed value in the market economy third country, or the price from such a third country to other countries, including India or where it is not possible, or on any other reasonable basis, including the price actually paid or payable in India for the like product, duly adjusted if necessary, to include a reasonable profit margin. An appropriate market economy third country shall be selected by the designated authority in a reasonable manner, keeping in view the level of development of the country concerned and the product in question, and due account shall be taken of any reliable information made available at the time of selection. Accounts shall be taken within time limits, where appropriate, of the investigation made in any similar matter in respect of any other market economy third country. The parties to the investigation shall be informed without any unreasonable delay the aforesaid selection of the market economy third country and shall be given a reasonable period of time to offer their comments.”

40. In view of the above, the Authority has determined normal value having regard to para-7 of Annexure-I for the purpose of present investigation. The normal value for the subject goods imported from China into India has been constructed considering optimum consumption of major raw materials as per information provided by the domestic industry, conversion cost, interest, SGA etc. at the levels allowed for the domestic industry along with a reasonable profit on the cost of production. Accordingly, the normal value so determined is as shown in the Dumping Margin Table below.

Determination of Normal Value for Thailand for all Exporters

41. The Authority sent questionnaire to the known producers/exporters of the product in Thailand as also the Government of Thailand. However, no questionnaire response has been received by the Authority from any producer or exporter of the subject goods in Thailand. The Authority has, therefore, not been able to determine dumping margin in respect of producers/exporters from Thailand on the basis of questionnaire response from the concerned producers/exporters. The domestic industry claimed normal value in Thailand on the basis of best estimates of cost of production in Thailand. No other interested party has provided any information with regard to normal value of the subject goods in Thailand. Under the circumstances, the Authority has determined normal value in Thailand on the basis of best estimates of cost of production in Thailand. The normal value of the subject goods imported from Thailand has been constructed considering optimum consumption of major raw materials as per information provided by the domestic industry, conversion cost, interest, SGA etc. at the levels allowed for the domestic industry along with a reasonable profit on the cost of production. Accordingly, the normal value so determined is as shown in the Dumping Margin Table

below.

Determination of Normal Value for Sri Lanka

Determination of Normal Value for M/s Merbok MDF Lanka (Private) Limited, Sri Lanka

42. M/s Merbok MDF Lanka (Private) Limited has filed questionnaire response from Sri Lanka. Since the company has filed questionnaire response in the form and manner prescribed, the Authority has considered individual dumping margin in respect of the company.
43. Questionnaire response filed by M/s Merbok MDF Lanka (Private) Limited was examined in detail. The Authority notes that exporter has provided information in different Appendices, which has been examined and cross-checked by the Designated Authority. An analysis of financial statement of the company filed in the exporter questionnaire response shows that the company has obtained loan in US\$ at the rate of ***% from its related company Merbok Hilir Berhad, based in Malaysia and shown in its books of accounts and requested the Authority to accept ***% rate of interest as it has been certified by its auditors that this inter-company borrowing has been fair valued at an estimated market rate of ***% per annum. In this regard, the Authority notes that Merbok, Sri Lanka has not provided any conclusive documentary evidence to the effect that the rate of interest of ***% p.a. charged in the books of accounts is the fair market and at arm's length rate. In view of the above, the Authority considers appropriate to adopt interest at the rate of ***% p.a. as was considered in the earlier investigation vide Final Findings Notification No 14/29/2010-DGAD dated 10.05.2013, on these loans availed by the company from its related company in Malaysia.
44. The questionnaire response submitted by the company has been considered. It is seen that the exporter has provided selling price and other details of the subject goods in relevant Appendixes of their response. It is seen that the company has significant sales in the domestic market. The sales made by the company in the domestic market were examined to determine whether the same were above the cost of production determined by the Authority and profitable sales have been considered. The Authority has determined the Normal value which is mentioned in the table showing the dumping margin.

Determination of Normal Value for Malaysia

Determination of Normal Value for M/s Robin Resources (Malaysia) Sdn Bhd., Malaysia

45. M/s Robin Resources (Malaysia) Sdn Bhd., has filed questionnaire response from Malaysia. Since the company has filed questionnaire response in the form and manner prescribed, the Authority has considered individual dumping margin in respect of the company.
46. The questionnaire response submitted by the company has been considered. It is seen that the exporter has provided selling price and other details of the subject goods in relevant Appendixes of their response. It is seen that the company has significant sales in the domestic market. The sales made by the company in the domestic market were examined to determine whether the same were above the cost of production determined by the Authority. It is noted that the company has sold 80,983 CBM of the subject goods in its domestic market during the relevant period. After applying ordinary course of trade test, it is found that ***% sales in the domestic market were profitable which have been considered for determination of the normal value. The Normal Value is as shown in the Dumping Margin Table below.

DETERMINATION OF EXPORT PRICE

Export price in case of China

47. The Authority had sent questionnaire to the known producers/exporters of the product in China as also the Government of China. However, no questionnaire response has been received by the Authority from any producer or exporter of the

subject goods in China. The Authority has, therefore, not been able to determine dumping margin in respect of producers/exporters from China on the basis of questionnaire response from the concerned producers/exporters. Export price in case of all producers in China has been determined on the basis of import data procured from DGCI&S. The export price has been determined on the basis of weighted average import price from DGCI&S. Price adjustments have been made on account of inland freight, overseas freight, international insurance, bank charges, port charges and VAT as per best available information on record in order to arrive at the net export price at ex-factory level. Accordingly, the net export price at ex-factory level has been determined, which is indicated in the Dumping Margin Table below.

Export price in case of Thailand

48. The Authority sent questionnaire to the known producers/exporters of the product in Thailand as also the Government of Thailand. However, no questionnaire response has been received by the Authority from any producer or exporter of the subject goods in Thailand. The Authority has, therefore, not been able to determine dumping margin in respect of producers/exporters from Thailand on the basis of questionnaire response from the concerned producers/exporters. Export price in case of all producers in Thailand has been determined on the basis of import data procured from DGCI&S. The export price has been determined on the basis of weighted average import price from DGCI&S. Price adjustments have been made on account of inland freight, overseas freight, international insurance, bank charges, port charges, as per best available information on record in order to arrive at the net export price at ex-factory level. Accordingly, the net export price at ex-factory level has been determined, which is indicated in the Dumping Margin Table below.

Determination of Export Price in case of Sri Lanka Price

Export Price in case of M/s Merbok MDF Lanka (Private) Limited, Sri Lanka

49. The Authority notes that only M/s Merbok MDF Lanka (Private) Limited, Sri Lanka, has responded in the form and manner prescribed by the Authority and has furnished the requisite information to determine the export price as per the Rules. Since the company has provided relevant information, the Authority has determined export price in respect of the company based on its questionnaire response. The CIF export price has been determined on the basis of weighted average import price of all imports into India. The Authority has made adjustments on account of inland freight, overseas freight, international insurance, bank charges, port charges, credit cost, clearing and handling charges as claimed by the exporter in its response to the questionnaire in order to arrive at the net export price at ex-factory level. Accordingly, the net export price at ex-factory level has been determined, which is indicated in the Dumping Margin Table below.

Export Price in case of non-cooperative exporters/producers in Sri Lanka

50. Export price in case of all other producers/ exporters in Sri Lanka has been determined on the basis of best available information, considering questionnaire response filed by M/s Merbok MDF Lanka (Private) Limited, Sri Lanka, before the Authority. Price adjustments have been made on account of inland freight, overseas freight, international insurance, bank charges, port charges, credit cost, clearing and handling charges to arrive at the net export price at ex-factory level. Accordingly, the net export price at ex-factory level has been determined, which is indicated in the Dumping Margin Table below.

Determination of Export Price in case of Malaysia

Export Price in case of M/s Robin Resources (Malaysia) Sdn. Bhd, Malaysia

51. The Authority notes that only M/s Robin Resources (Malaysia) Sdn. Bhd, Malaysia, has filed complete response in the form and manner prescribed by the Authority and has furnished the requisite information to determine the export price as per the Rules. Since the company has provided relevant information, the Authority has

determined export price in respect of the company based on its questionnaire response. The CIF export price has been determined on the basis of weighted average import price of all imports into India. The Authority has made adjustments on account of inland freight, overseas freight, bank charges, handling and clearing charges, credit cost and commission as claimed by the exporter in its response to the questionnaire in order to arrive at the net export price at ex-factory level. Accordingly, the net export price at ex-factory level has been determined, which is indicated in the Dumping Margin Table below.

Export Price in case of other exporters/producers from Malaysia

52. Export price in case of all other producers/ exporters in Malaysia has been determined on the basis of best available information, considering questionnaire response filed by M/s Robin Resources (Malaysia) Sdn. Bhd, Malaysia. Price adjustments have been made account of inland freight, overseas freight, bank charges, handling and clearing charges, credit cost and commission to arrive at the net export price at ex-factory level. Accordingly, the net export price at ex-factory level has been determined, which is indicated in the Dumping Margin Table below.

Dumping Margin Table

53. Considering the Normal Values and the Export prices as determined as above, the Dumping Margin for the producers/exporters from the subject countries is determined as follows:

Subject Countries	Normal Value (US\$)	Export Price(US\$)	Dumping Margin(US\$)	Dumping Margin %	Dumping Margin % Range
China PR	***	***	***	***	65-75
Thailand	***	***	***	***	45-55
Malaysia-	***	***	***	***	
-M/s Robin Resources (Malaysia) Sdn. Bhd., Malaysia	***	***	***	***	0-10
-Any other producer/exporter from Malaysia	***	***	***	***	15-25
Sri Lanka-					
-M/s Merbok MDF Lanka (Private) Limited, Sri Lanka	***	***	***	***	0-10
-Any other producer/exporter from Sri Lanka	***	***	***	***	5-15

H. ASSESSMENT OF INJURY AND CAUSAL LINK

Submissions by the domestic industry

54. The domestic industry has made the following submissions with regard to the injury and causal link:

- i. Imports of the product under consideration are being dumped by the exporters in Vietnam and Indonesia as well. The Authority has already initiated investigations and the same are in progress. A number of producers in the subject countries in the present investigation are having production facilities in Vietnam or Indonesia and

have resorted to dumping from these countries. In fact, questionnaire response has been filed before the Authority, which clearly establishes significant exports from these countries. The Authority should consider the fact of dumping shifting to new countries by some of the producers-exporters in subject countries while considering the present determination. This is relevant both for assessment of injury during the present period as also for likelihood of dumping & injury in the event of cessation of ADD.

- ii. The share of subject countries' imports in total imports has decreased in the POI when compared with the base year, but remained significant despite the existence of anti-dumping duties. Clearly, the share has only declined in view of the anti dumping duties imposed earlier. The trend from 2004-05 to 2008-09 (ranging from 77% to 98%) clearly indicated that the share of subject countries' imports in total imports is likely to increase in the event of cessation of duties.
- iii. The volume of imports from the subject countries in relation to Indian consumption has decreased in the POI when compared with the base year but this is because of imposition of ADD and switching of imports to some extent from other countries.
- iv. The volume of imports from the subject countries in relation to Indian production has declined in the POI when compared with the base year. This is because of imposition of ADD and switching of imports to some extent from other countries.
- v. The domestic industry has been able to recover to some extent because of imposition of anti dumping duties on the subject imports. However, it is still suffering injury in terms of volume parameters and low profits.
- vi. Despite rising demand in the country for the product under consideration, the domestic industry has not been able to fully utilize its capacities.
- vii. Further inventories have increased.
- viii. There is significant price undercutting and underselling due to dumped imports.
- ix. The Indian industry has been forced to suspend production off and on because of piling inventories.
- x. The domestic industry has suffered continued material injury as a result of dumping of the product in the market.
- xi. The decline in profits in the period of investigation suggests that the dumped imports are impacting the domestic industry.
- xii. The wages have increased over the injury period but the wages per unit have declined. It is understandable that the domestic industry cannot afford to cut wages to a large extent, as this is the last resort for any company. While decline in wages per unit of production shows the impact of new production operations, the improvement in profits to a significant extent was for this reason.
- xiii. Besides subject countries, imports from Indonesia and Vietnam constitute more than 3% of the total volume of imports of the subject goods. However, since the present investigation is a sunset review investigation, other countries could not be included within the scope of investigation at this stage. The industry has, however, filed a separate petition, which is under consideration of the Authority.
- xiv. Subject countries' imports have declined slightly over the injury period, but increased in the POI when compared with the previous year and previous investigations and continue to be significant. This establishes causal link.

Submissions by producers/exporters/importers other interested parties

55. The foreign producers/exporters/importers/other interested parties have made the following submissions with regard to the injury and causal link:

- i. There is no injury and causal link to the so-called domestic industry.
- ii. Import volume from Malaysia is not causing injury to the domestic industry. Imports from Malaysia and other subject countries along with their shares have declined significantly.
- iii. There is no price suppression and price depression. The increase in selling price is significantly more than the increase in cost during the same period. Landed value increased significantly from 100 (indexed) in the base year to 127 (indexed) during the POI.
- iv. Capacity utilization and production of domestic industry has increased significantly.
- v. The profits, cash profits and return on capital employed (ROCE) have increased significantly.

- vi. Sales volume had been disclosed in original investigation and there are significant improvements in the domestic sales volume and value of the domestic industry.
- vii. Increase in capacity resulted into increase in interest expenses as a result of increased loans and consequently the per unit cost.
- viii. Wages and depreciation cost have increased which should otherwise have come down in the absence of capacity addition.
- ix. The profits have increased by over 205% over the injury investigation period.
- x. The cash profits have increased by over 872% over the injury investigation period.
- xi. The return on capital employed has increased exceptionally by over 407%.
- xii. The number of employees figure is confidential and there is no injury on this factor.
- xiii. Wages paid and productivity of petitioner has increased significantly.
- xiv. Significant price undercutting indicates that domestic prices of the petitioner are much above the reference prices fixed for each of the subject countries, which in turn indicates that import prices from the subject countries have no bearing on the domestic prices and domestic prices move independently. Import prices from Vietnam are not affecting the domestic prices.
- xv. The closure of operations by old producers and improvement in performance of new producers all around indicates that operations of the domestic producers are independent of any effect from imports and they are being affected from local factors prevalent and inherent in the domestic market.
- xvi. There is no price underselling due to imports from the subject countries.

Examination by the Authority

Cumulative Assessment of Injury

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

- a. The margin of dumping established in relation to imports from each country is more than 2% expressed as percentage of export price and the volume of the imports from each country is 3% of the imports of like article, or where the export of individual countries is less than 3%, the imports collectively accounts for more than 7% of the imports 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 article.

57. In the instant case, the investigation in respect of the subject goods is from more than one country. The Authority, therefore, examined whether the injury to the domestic industry must be determined cumulatively from these subject countries in respect of the imports of the subject goods. The Authority has found that the margin of cumulative dumping from the subject country is more than 2% and the cumulative volume of imports is also more than 7%. Cumulative assessment of injury is appropriate in respect of these subject countries in view of the followings-

- i. The subject goods have been imported from the subject countries under the same tariff classification;
- ii. The Authority has found that the imported subject goods are commercial substitutes of the domestically produced PUC.
- iii. The information furnished to the Authority gives a reasonable indication that the exports made from the subject countries compete in the same market and are like products.
- iv. Imports from the subject countries have been made by same category of customers who are buying the product from the domestic industry.

58. The Authority holds that it is appropriate to cumulatively assess the effect of dumped imports of the subject goods on the domestically produced like article

59. The Authority has taken note of various submissions of the interested parties on consequent injury to the domestic industry and analyzed the same considering the facts

available on record and applicable as per law.

60. In consideration of the various submissions made by the domestic industry in this regard, the Authority proceeds to examine the current injury, if any, to the domestic industry before proceeding to examine the likelihood aspects of dumping and injury on account of imports from the subject countries.
61. 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.
62. 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 rules supra.
63. The present investigation is a sunset review of anti-dumping duties in force. Rule 23 provides that provisions of Rule 11 shall apply, mutatis mutandis, in case of a review as well. The Authority has, therefore, determined injury to the domestic industry considering, mutatis mutandis, the provisions of Rule 11 read with Annexure II. Since the anti-dumping duties are in force on imports of the product under consideration, the Authority considered whether the existing anti-dumping duties on the imports of the subject goods from the subject countries are required to be extended while examining injury to the domestic industry. The Authority holds that existence of injury to the domestic industry during the current injury period is not a pre-requisite for extension of ADD. The arguments of the interested parties with regard to absence of injury to the domestic industry, therefore, do not establish that the present ADD is not required to be extended. The interested parties have not established that the injury to the domestic industry is not likely in the event of cessation of ADD. According to Section 9(A)(5) of the Customs Tariff Act, anti-dumping duty imposed shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition, provided that if the Central Government, in a review, is of the opinion that the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury, it may, from time to time, extend the period of such imposition for a further period of five years and such further period shall commence from the date of order of such extension.
64. For the purpose of current injury analysis, the Authority has examined the volume and price effects of dumped imports of the subject goods on the domestic industry and its effect on the prices and profitability to examine the existence of injury and causal links between the dumping and injury, if any. The Authority has examined injury to the domestic industry by considering information relating to M/s Greenply Industries Ltd. and has considered that the company constitutes domestic industry within the meaning of the Rules. Accordingly, the volume and price effect of dumped imports have been examined as follows.

VOLUME EFFECT:

Volume effect of dumped imports and impact on domestic industry

Demand and Market Share

65. The Authority has determined demand or apparent consumption of the product in the country as the sum of domestic sales of the Indian producers and imports from all sources. The demand so assessed can be seen in the table given below. The Authority notes that demand for the product in the country increased over the injury period.

Particular	Unit	2010-11	2011-12	2012-13	POI
Sales of Domestic Industry	CBM	***	***	***	***
Trend	Indexed	100	445	575	538

Sales of Other Indian Producer	CBM	***	***	***	***
Trend	Indexed	100	99	116	147
Imports in India	CBM	1,02,231	93,131	1,16,452	1,34,261
Total Subject Countries	CBM	61,161	59,382	52,432	54,282
Other Countries under ADD investigation	CBM	27,587	22,883	46,564	61,725
Other Countries	CBM	13,483	10,866	17,455	18,254
Demand in India	CBM	2,06,746	2,60,937	3,22,560	3,60,474

66. It is seen that the demand for the product increased significantly over the injury period.

Import Volume & market share

67. The Authority has examined the volume of imports of the subject goods. Transaction wise imports data was procured from the Directorate General of Commercial Intelligence and Statistics (DGCI&S) and the same has been adopted for the present purposes. Imports volume from subject countries and other countries has been as under:-

Particulars	Unit	2010-11	2011-12	2012-13	POI
Imports Volume					
China	CBM	2,807	1,312	469	304
Malaysia	CBM	33,885	25,124	20,700	23,882
Thailand	CBM	2,728	489	2,254	2,734
Sri Lanka	CBM	21,741	32,457	29,008	27,362
Subject Countries	CBM	61,161	59,382	52,432	54,282
Other Countries under ADD investigation	CBM	27,587	22,883	46,564	61,725
Other Countries	CBM	13,483	10,866	17,455	18,254
Total Imports	CBM	1,02,231	93,131	1,16,452	1,34,261

68. It is seen from the above table that imports from the subject countries have declined during the POI as compared to the base year but still remain significant and imports from countries under ADD investigation have increased significantly in the POI as compared to the base year.

69. The petitioner contends that imports of the product under consideration are being dumped by the exporters in Vietnam and Indonesia. It is noted in this regard that the Authority has initiated investigation wherein VRG Dongwha, Vietnam has filed questionnaire response. This producer has production facilities in the Malaysia as well as Vietnam. The Authority has also examined the volume of exports reported by this exporter in that investigation. It is noted that this exporters has in fact undertaken significant exports from Vietnam of that investigation. It is thus apparent that Dongwha group companies switched to exports from Vietnam as well. If the exports made from those countries are also considered, it is seen that the volume of exports has significantly increased.

70. The Authority also notes that the present investigation is in the nature of sunset review investigation and, therefore, increase in imports in any case is not a necessary pre-requisite for determination.

71. The Authority examined the volume of imports in relation to production and

consumption in India. Market share of subject countries and other countries in consumption of the product under consideration in India has been as under:-

Particular	Unit	2010-11	2011-12	2012-13	POI
Sales of Domestic Industry	%	***	***	***	***
Trend	Indexed	100	445	575	538
Sales of Other Indian Producer	%	***	***	***	***
Trend	Indexed	100	99	116	147
Imports in India	%	49.45	35.69	36.10	37.25
China	%	1.36	0.50	0.15	0.08
Malaysia	%	16.39	9.63	6.42	6.63
Thailand	%	1.32	0.19	0.70	0.76
Sri Lanka	%	10.52	12.44	8.99	7.59
Total Subject Countries	%	29.58	22.76	16.26	15.06
Other Countries under ADD investigation	%	13.34	8.77	14.44	17.12
Other Countries	%	6.52	4.16	5.41	5.06
Demand in India	%	100.00	100.00	100.00	100.00

72. It is seen that the market share of the subject countries in consumption of the product under consideration has declined. It is, however, seen that the market share of other countries under investigation has increased. In any case, market share of the subject countries has remained significant despite existing ADD. It is also noted that the market share of not only domestic industry and also of other domestic producers significantly increased over the injury period.

PRICE EFFECT

Price effect of dumped imports and impact on domestic industry

73. The impact of dumped imports on the prices of the domestic industry has been examined with reference to price undercutting, price underselling, price suppression and price depression. For the purpose of this analysis, the cost of production, selling price of the domestic industry and the non-injurious price (NIP) of the domestic industry have been compared with landed value of imports from the subject countries. A comparison for subject goods during the period of investigation was made between the landed value of the dumped imports and the domestic selling price in the domestic market. In determining the net sales realization of the domestic industry, taxes, rebates, discounts and commission incurred by the domestic industry have been adjusted. The price underselling is an important indicator of assessment of injury. Thus, the Authority has worked out the non-injurious price and compared the same with the landed value to arrive at the price underselling. The non-injurious price has been evaluated for the domestic industry in terms of the principles by appropriately considering the cost of production for the product under consideration during the POI.

Price Undercutting

74. The Authority considered whether there has been significant price undercutting by the imports, when compared with the price of like product 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. The details of price undercutting analysis are as follows:

Particulars	Unit	2010-11	2011-12	2012-13	POI
Net Sales Realisation of Domestic Industry	Rs./CBM	***	***	***	***
Malaysia					
Landed Price	Rs./CBM	***	***	***	***
Price undercutting	Rs./CBM	***	***	***	***
Price undercutting	%	***	***	***	***
Price undercutting Range	%	10-20	10-20	15-25	20-30
Sri Lanka					
Landed Price	Rs./CBM	***	***	***	***
Price undercutting	Rs./CBM	***	***	***	***
Price undercutting	%	***	***	***	***
Price undercutting Range	%	10-20	15-25	15-25	15-25
Thailand					
Landed Price	Rs./CBM	***	***	***	***
Price undercutting	Rs./CBM	***	***	***	***
Price undercutting	%	***	***	***	***
Price undercutting Range	%	10-20	0-10	5-15	10-20
China PR					
Landed Price	Rs./CBM	***	***	***	***
Price undercutting	Rs./CBM	***	***	***	***
Price undercutting	%	***	***	***	***
Price undercutting Range	%	5-15	25-35	15-25	10-20
Subject Countries as a whole					
Landed Price	Rs./CBM	***	***	***	***
Price undercutting	Rs./CBM	***	***	***	***

Particulars	Unit	2010-11	2011-12	2012-13	POI
Price undercutting	%	***	***	***	***
Price undercutting Range	%	10-20	10-20	15-20	15-25

75. The Authority notes from the above table that the landed price of imports of product under consideration is much below the selling price of the domestic industry. There is significant price undercutting in the whole injury period. The volume of dumped imports is also significant.

Price Underselling

76. The Authority notes that the price underselling is an important indicator of assessment of injury. Non injurious price has been worked out and compared with the landed value of the subject goods to arrive at the extent of price underselling. The non-injurious price has been determined considering the cost of production of the domestic industry for the product under consideration during the POI in accordance with Annexure III of the Anti-dumping Rules. The NIP for all the countries has been considered on the basis of cost of production of M/s Greenply considering the provisions of Annexure-III of the Rules. The analysis of data given in Table below shows that the landed value of the subject imports in respect of Malaysia, China, Sri Lanka and Thailand was below non-injurious price of the domestic industry, thus, resulting in significant positive price underselling.

Subject Countries	NIP	Landed Price	Price Underselling	Price Underselling %	
	US\$./CBM	US\$./CBM	US\$./CBM	%	% Range
Malaysia	***	***	***	***	25-35
Thailand	***	***	***	***	10-20
Sri Lanka	***	***	***	***	15-25
China	***	***	***	***	10-20

Price Suppression and Depression

77. The Authority examined whether the effect of the imports was to depress the prices of the like article in India, or prevent price increases which would have otherwise occurred. The summarized analysis can be seen from the table below.

Particulars	Unit	2010-11	2011-12	2012-13	POI
Cost of sales	Rs./CBM	***	***	***	***
Trend	Indexed	100	113	114	116
Selling price	Rs./CBM	***	***	***	***
Trend	Indexed	100	109	128	133
Landed Price of subject countries	Rs./CBM	***	***	***	***

Trend	Indexed	100	110	128	127
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78. The Authority notes from the above table that both the cost of sales and the selling price increased over the injury period. The domestic industry has been able to increase its selling price with imposition of ADD. It is, however, noted that the landed price of imports is materially below the selling price of the domestic industry. Therefore, should the present duty be allowed to cease, imports are likely to undercut the prices of the domestic industry significantly, which would cause significant price depression.

Examination of other economic parameters of the domestic industry

79. Annexure II to the Anti-dumping Rules requires that a determination of injury shall involve an objective examination of the consequent impact of these imports on domestic producers of like product. The 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 and ability to raise capital investments. An examination of performance of the domestic industry reveals that the domestic industry has suffered material injury. The various injury parameters relating to the domestic industry are discussed below.

Production, sales, capacity and capacity utilization

80. The production, sales, capacity and capacity utilization of the domestic industry have been as under:

Particulars	Unit	2010-11	2011-12	2012-13	POI
Capacity	CBM	***	***	***	***
Trend	Indexed	100	100	100	100
Production	CBM	***	***	***	***
Trend	Indexed	100	426	588	568
Capacity Utilization	%	***	***	***	***
Trend	Indexed	100	426	588	568
Sales	CBM	***	***	***	***
Trend	Indexed	100	445	575	538

81. The Authority notes that the capacity for the product under consideration has remained at the same level throughout the injury period. Production has increased over the injury period. Resultantly, the capacity utilization has increased significantly over the injury period. Sales of the domestic industry have increased significantly over the injury period. The Authority notes in this regard that the domestic industry had commenced commercial production in 2010-11 and it was the first year of its operations. Therefore, the capacity utilization of the domestic industry was low in 2010-11.

Profit/loss, return on investment and cash flow

82. The return on investment, profit/loss before and after interest and cash profit are as shown in the table below:

Particulars	Unit	2010-11	2011-12	2012-13	POI
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Profit/(Loss)	Rs.Lacs	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	(100)	(813)	833	1,005
Cash Profit	Rs.Lacs	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	(174)	2,180	2,403
PBIT	Rs.Lacs	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	178	1,058	1,072
ROCE	%	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	178	1,139	1,131

83. It is seen that the domestic industry has been suffering financial losses till 2011-12. It is also noted in this regard that the losses in the beginning of the injury period could be due to lower capacity utilization (because of new plant).

84. Cash profits and return on investments have followed the same trend as that of profits before interest and tax.

Inventories

85. The inventories with the domestic industry moved as shown in the table below. It is seen that the inventory levels with the domestic industry increased over the injury period.

Particulars	Unit	2010-11	2011-12	2012-13	POI
Average Stock	CBM	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	114	196	215

Employment and wages

86. The employment and wages with the domestic industry are shown in the table below. It is seen that wages have shown normal wage growth and the employment have increased.

Particulars	Unit	2010-11	2011-12	2012-13	POI
No. of Employees	Nos	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	157	173	173
Wages	Rs.Lacs	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	402	504	538

Productivity

87. The productivity of the domestic industry moved as shown in the table below. The Authority notes that productivity of the domestic industry during the POI has moved in tandem with the production over the injury period and increased over the injury period with the exception of POI when it has marginally declined.

Particulars	Unit	2010-11	2011-12	2012-13	POI
Productivity per day	CBM	***	***	***	***

Productivity per employee	CBM	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	257	317	298

Magnitude of Dumping Margin

88. The Authority notes that the dumping margin of the imports of the subject goods from the subject countries is positive.

Growth

89. Growth of the domestic industry has shown positive trend on volume and price parameters. It is, however, noted that the price undercutting has remained positive throughout the period.

Factors Affecting Domestic Prices

90. The examination of the import prices from the subject countries and other countries, change in the cost structure, competition in the domestic market, factors other than dumped imports that might be affecting the prices of the domestic industry in the domestic market shows that the landed value of the subject goods imported from the subject countries are below the cost of production, selling price and the non-injurious price of the domestic industry, causing significant price undercutting as well as price underselling in the Indian market. The domestic industry contended that the import prices of the product under consideration from subject countries and other countries dumping at present are the primary factors for fixation of the prices by the domestic industry. The domestic industry further contended that should the present ADD be withdrawn, the domestic industry would be forced to reduce the prices.

Ability to raise Capital Investment

91. The ability to raise capital investment by the domestic industry is impacted and as per the petitioner's contentions, in the view of the adverse performance of the domestic industry, fresh investments by domestic industry would be difficult.

Overall assessment of Injury

92. The Authority notes that the volume of imports has remained significant over the injury period. With regard to the effect of the imports on prices, the landed price of imports of imports were below the selling price, cost of production and NIP of domestic industry, thus, showing positive price undercutting and price underselling except in case of China PR. The domestic industry is likely to suffer price undercutting in the absence of existing ADD, which is likely to have significant adverse impact on the prices in the domestic market. The performance of the domestic industry has improved in respect of production, domestic sales and capacity utilization. Inventories with the domestic industry were rising. Even when wages paid, employment and productivity has improved. The overall situation of the domestic industry is adverse.

Magnitude of Injury and Injury Margin

93. The Authority has determined the non-injurious price of the subject goods produced by the domestic industry in terms of Annexure III to the AD Rules. The non-injurious price so determined has been compared with the landed value of the exports from the subject countries for determination of injury margin during the POI which is as follows:

Subject Countries	NIP (US\$)	Landed Price(US\$)	Injury Margin(US\$)	Injury Margin %	Injury Margin % Range
China PR	***	***	***	***	10-20
Thailand	***	***	***	***	10-20
Malaysia-					

-M/s Robin Resources (Malaysia) Sdn. Bhd., Malaysia	***	***	***	***	25-35
-Any other producer/exporter from Malaysia	***	***	***	***	35-45
Sri Lanka-					
-M/s Merbok MDF Lanka (Private) Limited, Sri Lanka	***	***	***	***	15-25
-Any other producer/exporter from Sri Lanka	***	***	***	***	25-35

Causal Link

94. The Rules mandate the Authority to examine causal link between dumped imports and injury caused to the domestic industry on account of the dumped imports. In a sunset review investigation, the Authority has examined whether the following known factors could have caused injury to the domestic industry as follows:

- i. Volume and Value of Imports not sold at dumped prices: Imports from Indonesia, New Zealand and Vietnam have been more than 3% of the total volume of imports of the subject goods. In case of Vietnam and Indonesia, after significant increase in import volumes, an anti dumping investigation has been initiated on 7th May, 2015. As regards New Zealand, the Authority notes that the original investigations were initiated in respect of imports from New Zealand along with the present subject countries. However, the domestic industry withdrew petition in respect of New Zealand. The imports from New Zealand considering previous investigations have not shown so significant increase as has been found in case of imports from Indonesia and Vietnam. Imports from New Zealand are not likely to be principal cause of injury to the domestic industry.
- ii. Export Performance- The domestic industry has not undertaken exports of the product under consideration. Possible deterioration in the performance of the domestic industry in respect of exports is, therefore, not a possible cause of injury to the domestic industry.
- iii. Pattern of consumption- The Authority notes that there is no change in the pattern of consumption of the subject goods causing injury to the domestic industry.
- iv. Conditions of competition and trade restrictive practices:-The Authority notes that the investigation has not shown that conditions of competition or trade restrictive practices are responsible for the claimed injury to the domestic industry.
- v. Developments in technology- The Authority notes that the investigation has not shown that there was any significant change in technology which could have caused injury to the domestic industry.
- vi. Performance of other products of domestic industry- The Authority noted that separate records are maintained by Domestic Industry for product under consideration. The performance of other products did not cause any impact over injury to the domestic industry.

Conclusion on material injury and causal link

95. The Authority concludes that the dumped imports of the subject goods from the subject countries are undercutting the prices of domestic industry.

I. Likelihood of continuation/recurrence of dumping and injury

Submissions by the domestic industry

96. Following are the submissions made by the domestic industry:

- i. Despite existing anti dumping duties, there is continued dumping and injury being caused to the domestic industry.
- ii. The dumping margins determined in respect of subject countries in the original investigations indicated the propensity for dumping by the producers of the subject countries.
- iii. The producers in the subject countries have large production capacities for the subject goods. In the event of cessation of existing anti-dumping duties, there is a strong likelihood of dumping of the product in India.
- iv. In addition to having large production capacities, the producers in the subject countries have a high export percentage.
- v. As regards the argument that the Sri Lankan exporter only had a dumping margin of 5-9%, it is easy to perceive that the exporter had completely misled the Authority at the time of original investigation of the present case, which has led to significantly lower dumping margin in respect of exports made by this company. Resultantly, continued dumping from Sri Lanka is one of the reasons for injury being suffered by the Indian industry.
- vi. As regards the denial to the extent of excess capacities and that the alleged capacity of 1,20,000 CBM is for product range which covers PUC and Non-PUC items, it is to be noted that the exporter can readily use the capacity interchangeably to produce different grades of product in the same plant.
- vii. There is no merit in the argument that focus of Merbok is only benevolent price for its produce.
- viii. Sufficient evidence has been provided in the petition as regards surplus capacities, export orientation and likelihood.
- ix. Switching of dumping from present subject countries to other countries establishes that the exporters are likely to switch back to dumping from present subject countries in case of cessation of ADD.

Submissions by producers/exporters/importers/other interested parties

97. The following are the submissions made by the producers/exporters/importers/other interested parties with regard to likelihood of dumping and injury:

- a. The claim of applicant is that there is a long history of dumping in the product and if duties are removed, this dumping and injury will continue. Likelihood examination cannot be based on such conjecture and speculation.
- b. The domestic prices are substantially high in the range of 10-30%
- c. In the original investigation, a dumping margin of only 5-9% was found for Merbok.
- d. Merbok has strictly followed the terms of the price undertaking.
- e. Merbok's price was higher than that of third countries.
- f. There is no excess capacity. The alleged capacity of 1,20,000 CBM is for product range which covers PUC and Non-PUC items.
- g. The focus of Merbok is only its benevolent price for its produce.
- h. The applicant has no evidence or actual source to substantiate its claim of freely disposable present and potential capacities with the producers/exporters in the subject countries.

Examination by the Authority

98. The present investigation is a sunset review of anti-dumping duties imposed on the imports of subject goods from Malaysia, Thailand, Sri Lanka and China PR. Under the Rules, the Authority is required to determine whether continued imposition of anti-dumping duty is warranted. This also requires examination of whether the duty imposed is serving the intended purpose of eliminating injurious dumping. As far as likelihood analysis is concerned, the Authority has considered surplus capacities in relation to demand in the subject countries and India and price attractiveness of the Indian market.

Surplus capacity in the subject countries

99. It is seen from the data/evidence on record that there are huge capacity of subject goods in subject countries in comparison to the demand in India. As per information on records as submitted by the domestic industry and responding exporters, the capacity with the producers in subject countries is quite significant and their export orientation is quite high. Information provided by the domestic industry shows capacities with various exporters as follows:

Company	Capacity
China	
➤ Shanghai Sindo Panel Co., Ltd.	2,00,000
➤ Weihua MDF Group	12,00,000
➤ Shunlong Wood Industry Co. Ltd.	4,60,000
➤ Shuyang New Concept Wood Co. Ltd.	3,00,000
➤ Shouguang Wanda Wood Industry Co., Ltd.	20,000
➤ Shouguang Guihe Economic and Trade Co., Ltd.	1,50,000
Malaysia	
➤ Daiken Sarawak Sendirian Berhad	1,05,000
➤ Robin Resources	1,75,000
➤ Segamat Panel Boards Sdn Bhd	72,000
➤ Evergreen Fibre Berhad	8,28,000
Thailand	
➤ Vanachai Group	8,70,000
➤ Metro MDF Co. Ltd.	90,000
Sri Lanka	
Merbok MDF Lanka	120,000

100. While Chinese and Thai producers have preferred non cooperation, the Authority notes that the available information from Malaysian and Sri Lankan producers shows significant capacities in excess of their domestic sales. With the growing market in India, it is likely that cessation of anti dumping leads to intensified imports at dumped and injurious price causing of injury to the domestic industry.

Price attractiveness of Indian market

101. The Authority notes that subject countries are exporting subject goods into India at prices substantially lower than the price at which the goods are being sold in the domestic market. The subject countries perceive Indian market to be favorable and are likely to channelize their output towards India in case of cessation of duties.

Particulars	Unit	2010-11	2011-12	2012-13	POI
Net Sales Realisation of Domestic Industry	Rs./CBM	***	***	***	***
Landed Price of imports:-					
-Malaysia	Rs./CBM	***	***	***	***
-Sri Lanka	Rs./CBM	***	***	***	***
-Thailand	Rs./CBM	***	***	***	***
-China PR	Rs./CBM	***	***	***	***

I. POST SECOND ORAL HEARING SUBMISSIONS

Post second oral hearing submissions by the responding producers/exporters/other opposing interesting parties.

102. The Authority notes that most of the post second hearing submissions of the opposing interesting parties are repetitive and have already been considered. These are, in brief, as under:

Dongwha MDF (M) Sdn. Bhd. (DMM) and Dongwha Global Sales Sdn. Bhd.(DGS)

- i) The Authority has noted in the disclosure statement that DGS has not provided complete information regarding the procurement of the balance quantity. In this context, it is submitted that the balance quantity has been procured by DGS from M/s. VRG Dongwha MDF Joint Stock Company, Vietnam and, therefore, outside the scope of this investigation. Further, it can be seen from the records that the product that has been procured from Dongwha Vietnam Company has not been exported to India. In view thereof, it is submitted that the exporter has indeed provided full information of the product concerned which has been exported to India in terms of the requirements of the law.
- ii) DMM and DGS further submit that it is noted by the Authority in the disclosure statement that since complete information of the value chain has not been provided, the Authority has not determined the individual dumping margins for DMM and DGS. In this context, it is submitted that the concept of value chain refers to the fact that the full cost of the product exported to India or sold in the domestic market should be adequately reflected. It was further mentioned by the representative of the Domestic Industry that DMM has not provided any evidence with regard to the fact that their purchases of resins from a related party. In this connection, we draw attention to the questionnaire response wherein it has been specifically mentioned that the producer has indeed supplied sufficient documentary evidence to prove the fact that the purchases of resins from the related party are in the normal course of business and are at arm's length.
- iii) Further, DMM has sold the goods to only one related party, i.e., DGS. Complete questionnaire response of the same is already filed with the Authority. Accordingly, it is factually incorrect to state that DMM has sold goods to two related parties. In view of the arguments/reasoning advanced above, we request the Authority to grant individual dumping margin to DMM and DGS.

M/s Merbok MDF Lanka Pvt Ltd (Merbok)

- iv) M/s Merbok MDF Lanka Pvt Ltd (Merbok) submits that Normal Value for Merbok should be based on the records maintained by the company and not on any other basis. The premise of this submission is that in the original investigation concerning the same subject goods and another investigation concerning MDF of below 6 MM, the Authority has resorted to determine cost of production of PUC produced by Merbok by adjusting the same to reflect interest cost on a loan from its parent company based in Malaysia. Such adjustments were made by the Authority by considering the fact that such loans were reflected as interest free fund from the parent company in the records of Merbok. However, this situation has changed by the time of this investigation since Merbok effective from 2011 audited annual reports has restructured its long term loans and have started to provide interest on the said loan from the parent company based on market rates applicable in Malaysia wherein the parent company is situated. It is also submitted that the interest recorded in the books of Merbok reflects fairly interest cost and they are at arm's length level. In this regard, the Department of Commerce, Sri Lanka, has written to the Authority that if records of the company are in accordance with the GAAP of the exporting company and such records reasonably reflect the cost associated with production and sale of the PUC, the same should be accepted.
- v) Merbok was selling the product to India at a rate even higher than the undertaking price that was given by Merbok at the time of Final Finding in the original investigation, which clearly shows Merbok was not making frustrated price offers to gain any significant market share in India. There is, therefore, no likelihood of dumping and injury from Merbok in the event of revocation of measures.
- vi) Merbok submits that there is serious difference in the data submitted by the petitioner during this investigation and also with regard to investigation against Indonesia and Vietnam. There is serious apprehension that the petitioner has resorted to serious tampering of information and that has resulted in contradictory data between various submissions by the petitioner. The two written submissions alone pertaining to Greenply shows huge differences.
- vii) Merbok submits that as per their market inquires in India and also some

published information, following the disclosure statement, Greenply is using waste wood for fibre board which is nothing but the waste after using the fresh wood for ply.

- viii) The claim of petitioner that Normal value should be inclusive of customs duty since Merbok is in an EPZ area is without any legal basis.
- ix) The claim of petitioner that export price to third country or cost of production with reasonable addition of profit should be considered is an argument illegal at the face of it when the exporter has provided domestic prices as envisaged in the AD Agreement to determine its normal value.
- x) Resin price are based on books of Merbok and resin prices are based on arm's length level. The details about raw material purchases by Merbok are given in the EQR itself and the EQR had been available for any amount of verification.

M/s Robin Resources, Malaysia

- xi) M/s Robin Resources submit that in view of (i) the de-minimis dumping margin for Robin Resources in the previous investigation; (ii) determination by the Authority that the dumping margin for the exporter was less than 2% expressed as percentage of export price; (iii) Panel Report in the case of Mexico-Definitive Anti Dumping Measures on Beef and Rice; (iv) the legal provisions of Section 9A (1) of Customs Tariff Act read with Rule 14(c) of the Anti dumping Rules, the inclusion of the exporter Robin Resources in the current sunset review investigation is without jurisdiction and that the exporter is required to be excluded from the purview of the current investigation.

Other issues raised by the opposing parties

- xii) Opposing parties also claim that domestic industry has claimed confidentiality even on the quantitative details; that there is no injury to the domestic industry in terms of its market share. Further, there is virtually no information to prove the likelihood of dumping and injury. Increase in the selling price during the POI as compared to the base year is significantly more than increase in the cost during the same period. Landed value increased significantly from the base year to the POI. Therefore, there is neither any price suppression nor price depression for the domestic industry. Profit increased significantly from the base year to the POI. There is no evidence of significant surplus capacities, export orientation and likelihood.
- xiii) Opposing parties also claim the present SSR investigation is liable to be terminated one of the applicants on whose behalf the present investigation was initiated become non-cooperative rendering the initiation in question null and void.
- xiv) There should be no adjustment of excise duty for determination of cost, profit, cash profit and ROCE.

Post second oral hearing submissions by the Domestic Industry

103. The submissions of the domestic industry, in brief, are as under:

Merbok MDF Lanka Pvt.Ltd, Sri Lanka

- The Authority should consider that “a particular market situation” is prevailing in Sri Lanka wherein Merbok is in an EPZ, the sole producer in Sri Lanka and comprising 90% by law obligation to export the product and, therefore, its selling price in the domestic market is not appropriate. Since exporter has set up EPZ plant and is availing various concessions the cost of production is to be determined after adding the following- a) the element of customs duty on the capital goods that would have been payable by exporter had it not been EPZ plant, b) customs duty payable by the exporter on imports of raw materials, including resin and c) taxes and duties payable by exporter on procurement of inputs and raw materials from domestic market had it not been an EPZ.

- Merbok has purchased raw material through affiliated company. Thus the price is not representative of market values. This is also reflected in previous investigations concerning the product.
- Despite investigation concerning period of Jan'07- Dec'07, it has not been disclosed that Merbok was producing MDF and Resin in Malaysia.
- There is inconsistency and discrepancy in the three submissions made by Merbok, i.e, in original investigation, the thin board investigation and the present investigation. There was a different cost of production determined by the authority in the previous two investigations.
- Merbok in Sri Lanka has been earning low profits, which is attributable to the fact that significant expenses are not being books in the books of Merbok, Malaysia.
- The books of accounts of Merbok Sri Lanka are not reliable. No interest cost was found to have been charged in the income statement of the company for these loans from parent company at the time of original investigations. The certificate by auditors that the books of account are consistent with GAAP is insufficient for the authority to determine cost of production of the company. Further these books of account do not provide for significant operating expenses being incurred by Merbok, Sri Lanka and are being booked by Merbok, Malaysia.
- The Authority should scrutinize the claim of the company with regard to interest on loans from parent/affiliated company and adopt and appropriate cost for these loans. Subsidies to the company are not limited to purchase of capital goods, inputs, income tax savings, but also extends to loans given by parent/affiliated company.
- The composition of domestic industry at the stage of initiation, interim and final findings can be different. Examination of standing at the stage of initiation does not imply that determination of standing is legally necessary.
- The share of Greenply exclusively cannot be given in view of confidentiality and sensitivity of the information. This is an established position of jurisprudence.

Robin Resources (Malaysia) Sdn Bhd

- Robin Resources is a leading brand name in MDF market in Sri Lanka, yet it has claimed no dumping. The claim of normal value by the exporter is highly unlikely. It seems that the company has reported only B grade sales in the domestic market.
- The price at which goods are exported to India are unreliable. The exporter questionnaire submitted suggests that the company has not provided transaction wise details of its exports to third countries. Following the principles laid down by authority in past precedents, such questionnaire response should not be accepted. The exporter should be denied individual dumping margin and its response should be rejected.

Dongwha MDF (M) Sdn. Bhd. (DMM) and Dongwha Global Sales Sdn. Bhd.(DGS)

- Dongwha has wrongly contended that it has given complete information. Firstly there is no response of related producer, secondly, the value chain is incomplete unless all related parties involved with (a) production, (b) domestic sales, (c) exports to India and third countries, (d) costs, (e) costs of inputs involved in production of the product under consideration are before Designated Authority. It is a clear position in view of the past precedents and Authority's practice that individual dumping margin shall not be determined unless the questionnaire response is complete on account of domestic and export sales. The same applies herein.
- The petitioners have no reservations in disclosing trends in various economic parameters.
- The selling price and consequently profit is required to be determined after excluding the element of excise duty that is embedded in the selling price.
- Since Greenply commenced commercial production in Mar'2010, the profits of company in 2010-11 were abnormal and required to be adjusted to which Dongwha had specifically consented.
- The selling price of Greenply should be reduced by quantum of excise duty payable and thereafter determine profits.

- Unlike as contended by Dongwha during the oral hearing, as per the legal provisions the Authority is required to establish the impact of dumped imports on the domestic industry. Thus, since the domestic industry is at present able to earn profits because of excise duty exemption granted, the authority is requested to exclude the element of excise duty while determining profits of the domestic industry. The exclusion of excise duty shall not have any impact on the quantum of anti dumping duty.
- Further, the start up costs of domestic industry in the base year are required to be segregated which will reveal profits in the base year.
- With regard to the contention of exporter that as regard their buying resin from related parties is concerned, they have given proper evidence in annexures, it is submitted that exporter has not replied to questionnaire response in its entirety. The Authority may compare the invoices with regard to purchase of resin as submitted by the petitioners with claims of all three exporters. In the light of incomplete response, best information available may be relied upon. The Authority is requested to compare the price claimed by the company with the cost of production statement. The transfer price in any case cannot be considered. The US provision in this regard can be taken for guidance.
- The petitioner objects to significant changes made in the questionnaire response of the exporter as is evident from the final findings of the original investigation.
- In spite of anti dumping duties the domestic industry has suffered injury due to following reasons:
 - a. The injury is suffered on account of Designated Authority recommending benchmark form of duty. Custom port authorities lack a mechanism to ensure correctness of import prices reported by an importer. It is neither feasible nor practicable for port authorities to verify the import price.
 - b. Anti Dumping were imposed on 'plain MDF', whereas imports are coming under heading 'not plain mdf'.
 - c. To avoid anti dumping duties, import price increased overnight without increase in cost of production to a proportionate extent.
 - d. The cost of production increased over the period while the benchmark remained the same.
 - e. The price difference between thick and thin MDF almost disappeared overnight when the benchmark form of duty were imposed by the government.
 - f. There is increase in imports of thin MDF and same set of suppliers have supplied both types of MDF. Imports of MDF declared as laminated MDF (i.e. non plain MDF) imports increased significantly with marginal price difference with plain MDF.
- Price underselling is very much an indicator of injury as confirmed by previous practice of the Designated Authority.

Examination by the Authority

104. The Authority notes that most of the post second hearing submissions of the opposing interested parties and the domestic industry are repetitive and have already been considered. These are dealt with as under:
- i) The issues raised by Dongwha MDF (M) Sdn. Bhd. (DMM) and Dongwha Global Sales Sdn. Bhd.(DGS) have again been examined in the light of their submissions as well counters of the domestic industry. The Authority notes that firstly, the fact that balance quantity was procured by DGS from VRG Dongwha MDF Joint Stock Company, Vietnam was not revealed by DGS in the questionnaire response. Secondly, DMM has made contradictory statements regarding cost of production of major input Resin have been made by DMM in its questionnaire response at G.1.(a) and G.1.(g). Further, DMM has mentioned that DMM has sold the goods to only one related party, i.e., DGS and that complete questionnaire response of the same is already filed with the Authority and, thus, it is factually incorrect to state that DMM has sold goods to two related parties. In this connection the Authority notes in its questionnaire response, DMM has stated that on 31st December, 2013, that all assets and liabilities of DMM were transferred to DFB and before that no change in the structure of DMM took place during the last three years including the investigation period. In this regard, the Authority notes that as recorded in the Final

Findings of the original investigation dated 26.08.2009, DMM had one plant and DFB had two plants manufacturing the subject goods. As per the website of Dongwha International, DFB has two MDF factories in Nilai and Merbok, producing 1,40,000 CBM and 95,000 CBM of MDF annually respectively. On the other hand, DMM in its questionnaire response has mentioned that in the POI it had only one plant manufacturing the subject goods. The information of the two remaining plants was neither given by DMM earlier nor given now. Therefore, for want of crucial information, the responses of DMM and DGS can not be accepted and, therefore, as per its practice, the Authority has not determined the individual dumping margin in respect of M/s Dongwha MDF (M) Sdn. Bhd., Malaysia and M/s Dongwha Global Sales Sdn. Bhd., Malaysia.

- ii) The Authority notes that Merbok MDF Lanka (Private) Limited has reiterated its claim that Normal Value for Merbok should be based on the records maintained by the company and not on any other basis as the situation between the original investigation and the present investigation has changed since 2011 audited annual reports, Merbok has restructured its long term loans and have started to record interest on the said loan from the parent company based on prevailing market rates applicable in Malaysia wherein the parent company is situated. Merbok has submitted that the interest recorded in the books of Merbok reflects fair interest cost and they are at arm's length level. In this regard, the Authority notes that in the Final Findings Notification No 14/29/2010-DGAD dated 10.05.2013, the entire issue was examined and it was noted that the interest rates are subject to a number of stipulations and specific to the industries and the investigation being specific to the operations of the company in Sri Lanka, what would be relevant is the cost of financing in Sri Lanka and not any interest rates at which the parent company may be borrowing the capital. Further Merbok, Sri Lanka has not provided any documentary evidence to the effect that the rate of interest of 1.75% p.a. charged in the books of accounts is the fair market rate and at arm's length basis. In view of the above, the Authority is of the view that it is appropriate to consider interest at the rate of 7% on these loans obtained by the company from its related company.
- iii) The Authority notes that M/s Robin Resources has reiterated its claim that in view of (i) the de-minimis dumping margin for Robin Resources in the previous investigation; (ii) determination by the Authority that the dumping margin for the exporter was less than 2% expressed as percentage of export price; (iii) Panel Report in the case of Mexico-Definitive Anti Dumping Measures on Beef and Rice; (iv) the legal provisions of Section 9A (1) of Customs Tariff Act read with Rule 14(c) of the Anti dumping Rules, the inclusion of the exporter Robin Resources in the current sunset review investigation is without jurisdiction and that the exporter is required to be excluded from the purview of the current investigation. In this regard, the Authority reiterates its stand that the Authority can review all the aspects of the original investigation including scope of the domestic industry, dumping (including dumping margin), existence of injury to the domestic industry, injury margin etc. In addition to this, the Authority undertakes an examination of whether the expiry of such duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry. The Authority, therefore, considers that where an exporter was awarded zero duty in an original investigation and is now found to be dumping and the same is likely to cause injury to the domestic industry, then duties must be imposed considering the dumping margin and injury margin found in the present review investigation period. It is, therefore, appropriate to determine dumping margin and if the same is more than de-minimums, recommend anti dumping duty on such exporters.
- iv) As far as the other issues raised by the opposing parties regarding confidentiality, no injury to the domestic industry and no likelihood of dumping and injury are concerned, the Authority notes that it has examined all these aspects and concludes there is enough evidence of likely injury to the domestic industry in view of significant dumped imports during the POI from the subject countries, positive price undercutting and positive injury margin. Further huge capacities in the subject countries and their price orientation also are the indicators of likely dumping and injury. As far as confidentiality issue is concerned, information in index form giving the trends have been provided.
- v) As far as the issue that the present SSR investigation is liable to be terminated as

one of the applicants on whose behalf the present investigation was initiated became non-cooperative, the Authority notes that the initiation was based on prima facie evidence given by the two applicants but during the course of the investigation, the other applicant Manglam Timber Products could not give the costing information in a manner desired by the Authority. The Authority, therefore, did not consider it as part of domestic industry. At the same time, since the production of M/s Greenply Industries Limited constitutes a major proportion in the Indian production, the Authority has considered M/s Greenply Industries Limited as the domestic industry for the purpose of the present investigation. This is in line with the past precedences/decisions of the Authority in various other investigations.

- vi) As far as the issue raised by the domestic industry that the selling price of the applicant domestic industry Greenply should be reduced by quantum of excise duty payable and thereafter determine profits, the Authority has computed the NSR and profitability of the domestic industry on actual basis as reflected in their audited accounts relating to the POI. The Authority is further of the view that the actual NSR and profit are only relevant and not the notional one as conducted by the domestic industry.
- vii) Regarding the claim of Merbok that there are differences in the data submitted by the petitioner during this investigation and also with regard to investigation against Indonesia and Vietnam, the Authority notes that the initiation of investigation against Indonesia and Vietnam was based on the facts and merits of that case. In respect of the present investigation, the Authority has verified all the costing records/information of the domestic industry and then only come to the present conclusion.

POST SECOND DISCLOSURE STATEMENT SUBMISSIONS

Post second Disclosure Statement submissions by the opposing Interested Parties

105. The Authority notes that the post second disclosure statement submissions made by the opposing interested parties are repetitive in nature and have already been dealt with in the second Disclosure Statement. The important post second post Disclosure Statement submissions of the opposite interested parties, in brief, are as under:

- i) Merbok MDF Lanka (Private) Limited, Sri Lanka reiterates that the Authority should take the interest on inter-corporate loan @1.75% only as provided in the books of account which is in accordance with the generally accepted accounting principles of Sri Lanka that is Sri Lanka Accounting Standards (LKAS 39). Any deviation from the same would be unfair and contrary to a standard practice established in a territory of a country. Interest rate in the source country, i.e., Malaysia alone is relevant and that is the position as per the Guidance Note on Maintenance of Cost Accounting Records, issued by the Institute of Cost Accountants of India. The Authority hasn't strictly followed the condition of AD Agreement and the Indian AD Rules with regard to the confidential information submitted by Merbok and disclosed interest rate in the annual report.
- ii) Dongwha MDF (M) Sdn. Bhd. (DMM) and Dongwha Global Sales Sdn. Bhd.(DGS) submit that the balance quantity has been procured by DGS from M/s. VRG Dongwha MDF Joint Stock Company, Vietnam and, therefore, outside the scope of this investigation. Further, it can be seen from the records that the product that has been procured from Dongwha Vietnam Company has not been exported to India. In view thereof, it is submitted that the exporter has indeed provided full information of the product concerned which has been exported to India in terms of the requirements of the law.
- iii) Regarding the issue that DMM had one plant and DFB had two plants manufacturing the subject goods, it is submitted that DMM and DFB are two separate legal entities and DMM has not done any transaction i.e., neither purchase nor sale of the product concerned or even of the raw material during the POI. Further, DFB has not exported the product concerned to India. Accordingly, DFB has not filed the

questionnaire response nor is there any such requirement in the prescribed formats of the Authority.

- iv) DMM had disclosed the fact in its questionnaire response that DMM has purchased one of the input i.e., resin from the related party i.e., DCM (i.e. Dongwha Chemicals (M) Sdn, Bhd. DCM) which is a wholly owned subsidiary of DMH and pricing is on arm's length basis.
- v) M/s Robin Resources reiterates that in view of (i) the de-minimis dumping margin for Robin Resources in the previous investigation; (ii) determination by the Authority that the dumping margin for the exporter was less than 2% expressed as percentage of export price; (iii) Panel Report in the case of Mexico-Definitive Anti Dumping Measures on Beef and Rice; (iv) the legal provisions of Section 9A (1) of Customs Tariff Act read with Rule 14(c) of the Anti dumping Rules, the inclusion of the exporter Robin Resources in the current sunset review investigation is without jurisdiction and that the exporter is required to be excluded from the purview of the current investigation.
- vi) Opposing parties reiterate their claim that domestic industry has claimed confidentiality even on the quantitative details; that there is no evidence of dumping, injury and likely injury to the domestic industry; SSR investigation is liable to be terminated one of the applicants on whose behalf the present investigation was initiated become non-cooperative rendering the initiation in question null and void.

Post Second Disclosure Statement submissions by the Domestic Industry

106. The Authority notes that the post second disclosure statement submissions made by the domestic industry are repetitive in nature and have already been dealt with in the second Disclosure Statement. The important post second post Disclosure Statement submissions of the domestic industry, in brief, are as under:
- i) Indian producers had earlier filed appeal against the final findings notified by the Designated Authority, wherein the major challenge was (i) dumping margin (including cost of production) of the foreign producers (which includes Merbok as well); (ii) insufficient disclosures to the domestic industry (violation of principles of natural justice; (iii) incorrect acceptance of price undertaking.
 - ii) The books of accounts of Merbok Sri Lanka are not reliable. The certificate by auditors that the books of account are consistent with GAAP is insufficient for the authority to determine cost of production of the company. Further these books of account do not provide for significant operating expenses being incurred by Merbok, Sri Lanka and are being booked by Merbok, Malaysia. Merbok, Sri Lanka has booked significant expenses in Malaysian books of affiliated company;
 - iii) The Petitioner had earlier pointed out that the exporters have not provided transaction wise details of exports to third countries. Yet, questionnaire responses have been accepted by the Authority, which is against the decision of the Authority in the matter of ductile iron pipes.
 - iv) The anti dumping duty is required to be continued in fixed form and the duty expressed in US\$ terms.

Examination by the Authority

107. The Authority notes that the post second disclosure statement submissions made by the domestic industry and the opposing interested parties are repetitive in nature and have already been dealt with in the second post Disclosure Statement and again have been addressed in this Final Findings Notification under the appropriate headings. Nonetheless, the Authority has addressed these issues to the extent considered relevant as under:

- i) Regarding Dongwha MDF (M) Sdn. Bhd. (DMM) and Dongwha Global Sales Sdn. Bhd.(DGS), the Authority notes that DMM in its questionnaire response has stated that its related company Dongwha Fibre Board (DFB), Malaysia, was involved in the production and sales of the product under consideration. However, in its subsequent submission it has stated that DFB was not involved in the production of the subject goods. The Authority further notes from the Appendix-1 in the Exporter Questionnaire Response of DMM that it has sold the subject goods to DFB, its related company, in the POI. However, DMM, in its post Disclosure Statement comments has stated that it has sold the subject goods to DGS only. The Authority further notes that DMM has merged with DFB with effect from 31.12.2013 and as such it does not exist as on date. In view of the conflicting statements made by DMM and non-filing of EQR by DFB, the related company of DMM, the Authority is not in a position to verify the factual position of the exports/domestic sales made by DMM and its related company DFB. The Authority, therefore, has not determined the individual dumping margin for Dongwha MDF (M) Sdn. Bhd., Malaysia and Dongwha Global Sales Sdn. Bhd., Malaysia.
- ii) Regarding Merbok MDF Lanka (Private) Limited, the Authority notes that Merbok MDF Lanka (Private) Limited has reiterated its claim that Normal Value for Merbok, Sri Lanka should be based on the records maintained by the company and not on any other basis. The Authority notes that Merbok, Sri Lanka has still not provided any conclusive documentary evidence to the effect that the rate of interest of 1.75% p.a. charged in the books of accounts is the fair market and at arm's length rate. In view of the above, the Authority considers appropriate to adopt interest at the rate of 7% p.a. as was considered in the earlier investigation vide Final Findings Notification No 14/29/2010-DGAD dated 10.05.2013, on these loans availed by the company from its related company in Malaysia.
- iii) Regarding M/s Robin Resources, the Authority reiterates its stand that the Authority can review all the aspects of the original investigation including scope of the domestic industry, dumping (including dumping margin), existence of injury to the domestic industry, injury margin etc. In addition to this, the Authority undertakes an examination of whether the expiry of such duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry. The Authority, therefore, considers that where an exporter was awarded zero duty in an original investigation and is now found to be dumping and the same is likely to cause injury to the domestic industry, then duties must be imposed considering the dumping margin and injury margin found in the present review investigation period. It is, therefore, appropriate to determine dumping margin and if the same is more than de-minimums, recommend anti dumping duty on such exporters.
- iv) As far as the other issues raised by the opposing parties regarding confidentiality, no injury to the domestic industry and no likelihood of dumping and injury are concerned, the Authority reiterates that the Authority has considered the claims of confidentiality made by the petitioner and the opposing interested parties and on being satisfied about the same, the Authority has allowed the claim on confidentiality and further that it has examined all these aspects and concludes there is enough evidence of likely injury to the domestic industry in view of significant dumped imports during the POI from the subject countries, positive price undercutting and positive injury margin. Further huge capacities in the subject countries and their price orientation also are the indicators of likely dumping and injury. Further huge capacities in the subject countries and their price orientation also are the indicators of likely dumping and injury.
- v) As far as the issue that the present SSR investigation is liable to be terminated as one of the applicants on whose behalf the present investigation was initiated became non-cooperative, the Authority reiterates that the initiation was based on prima facie evidence given by the two applicants but during the course of the investigation, the other applicant Manglam Timber Products could not give the costing information in a manner desired by the Authority. The Authority, therefore,

did not consider it as part of domestic industry. At the same time, since the production of M/s Greenply Industries Limited constitutes a major proportion in the Indian production, the Authority has considered M/s Greenply Industries Limited as the domestic industry for the purpose of the present investigation. This is in line with the past precedences/decisions of the Authority in other investigations.

INDIAN INDUSTRY'S INTEREST & OTHER ISSUES:

108. 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 country/territory in any way, and, therefore, would not affect the availability of the product to the consumers.
109. 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 have some influence on relative competitiveness of this product. However, 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 in the performance of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods.

L. CONCLUSION AND RECOMMENDATIONS

110. After examining the submissions made by the opposing interested parties and the domestic industry and issues raised therein; and considering the facts available on record, the Authority concludes that the product under consideration has been exported to India from the subject countries below its associated normal value, thus, resulting in dumping of the product. The domestic industry has suffered material injury in respect of the subject goods. The material injury has been caused by the dumped imports from the subject countries.
111. 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 the imports of the subject goods originating in or exported from the subject countries in the form and manner described hereunder.
112. 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 duties as per the amount specified in the table below are 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 the subject countries.

Duty Table

Sl No	Sub-heading	Description of Goods	Country of Origin	Country of Export	Producer	Exporter	Amount	Unit of Measurement	Currency
1.	44.11	Plain Medium Density Fibre Board from 6MM and above	China PR	China PR	Any	Any	46.09	CBM	US\$
2.	44.11	Plain Medium Density Fibre Board from 6MM and above	China PR	Any	Any	Any	46.09	CBM	US\$
3.	44.11	Plain Medium Density Fibre Board from 6MM and above	Any country other than subject countries	China PR	Any	Any	46.09	CBM	US\$
4.	44.11	Plain Medium Density Fibre Board from 6MM and above	Thailand	Thailand	Any	Any	45.27	CBM	US\$
5.	44.11	Plain Medium Density Fibre Board from 6MM and above	Thailand	Any	Any	Any	45.27	CBM	US\$
6.	44.11	Plain Medium Density Fibre Board from 6MM and above	Any country other than subject countries	Thailand	Any	Any	45.27	CBM	US\$
7.	44.11	Plain Medium Density Fibre Board from 6MM and above	Malaysia	Malaysia	M/s Robin Resources (Malaysia) Sdn Bhd	M/s Robin Resources (Malaysia) Sdn Bhd	5.72	CBM	US\$
8	44.11	Plain Medium Density Fibre Board from 6MM and above	Malaysia	Malaysia	Any combination other than Sl. No 7 above		36.10	CBM	US\$
9	44.11	Plain Medium Density Fibre Board from 6MM and above	Malaysia	Any	Any	Any	36.10	CBM	US\$

Sl No	Sub-heading	Description of Goods	Country of Origin	Country of Export	Producer	Exporter	Amount	Unit of Measurement	Currency
10	44.11	Plain Medium Density Fibre Board from 6MM and above	Any country other than subject countries	Malaysia	Any	Any	36.10	CBM	US\$
11.	44.11	Plain Medium Density Fibre Board from 6MM and above	Sri Lanka	Sri Lanka	M/s Merbok MDF Lanka (Private) Ltd	M/s Merbok MDF Lanka (Private) Ltd	11.83	CBM	US\$
12.	44.11	Plain Medium Density Fibre Board from 6MM and above	Sri Lanka	Sri Lanka	Any combination other than Sl. No 11 above		26.49	CBM	US\$
13.	44.11	Plain Medium Density Fibre Board from 6MM and above	Sri Lanka	Any	Any	Any	26.49	CBM	US\$
14.	44.11	Plain Medium Density Fibre Board from 6MM and above	Any country other than subject countries	Sri Lanka	Any	Any	26.49	CBM	US\$

113. 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.
114. An appeal against the order of the Central Government arising out of these findings shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act.

(A K Bhalla)
Designated Authority

