

Ministry of Commerce & Industry  
Department of Commerce  
Directorate General of Anti Dumping & Allied Duties  
Udyog Bhavan, New Delhi.

NOTIFICATION

New Delhi, the 23<sup>rd</sup> August, 2007

**FINAL FINDINGS**

Subject: Antidumping investigation concerning imports of Pre-sensitized Positive Offset Aluminum Plates (PS Plates) from Bulgaria, China PR, Malaysia, Singapore and South Korea.

A. BACKGROUND

No.14/6/2006-DGAD - Having regard to the Customs Tariff Act 1975 as amended in 1995 (hereinafter referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, (hereinafter referred to as the Rules) thereof:

2. Whereas M/s Technova Imaging Systems (P) Ltd., and M/s. Stovec Industries Limited (herein after referred to as the Applicant) filed an application before the Designated Authority (hereinafter referred to as the Authority), in accordance with the Customs Tariff Act, 1975 as amended in 1995 and Customs Tariff (Identification, Assessment and Collection of Anti Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (herein after referred to as the Rules), alleging dumping of Pre-sensitized Positive Offset Aluminum plates (herein after referred to as subject goods) originating in or exported from Bulgaria, China PR, Malaysia, Singapore and South Korea (herein after also referred to as subject countries) and requested for initiation of Anti Dumping investigations for levy of anti- dumping duties on the subject goods. The Authority notified the Embassy of subject countries about the receipt of dumping allegation in accordance with sub rule 5(5) of Rules.

3. Whereas the Authority on the basis of sufficient evidence submitted by the Applicant on behalf of the domestic industry, issued a public notice dated 24<sup>th</sup> August, 2006 published in the Gazette of India, Extraordinary initiating Anti- Dumping investigations concerning imports of the subject goods originating in or exported from the subject countries in accordance with the Rule 6 of the Rules to determine the existence, degree and effect of alleged dumping and to recommend the amount of antidumping duty, which if levied would be adequate to remove the injury to the domestic industry.

#### B. PROCEDURE:

4. The procedure described below has been followed:

(I) On 24<sup>th</sup> August 2006, the Designated Authority (hereinafter also referred to as Authority), under the above Rules, issued an initiation notification published in the Gazette of India, initiating an anti dumping investigation with regard to imports of Pre-sensitized Positive Offset Aluminum plates originating in or exported from subject countries. The Anti dumping proceeding was initiated following an application received from M/s Technova Imaging Systems (P) Ltd., and M/s. Stovec Industries Limited (hereinafter referred as applicants) on behalf of the domestic industry representing a major proportion of the domestic production of said product. The application contained evidence of dumping of the said product and material injury resulting there from, which was considered sufficient to justify the initiation of the proceedings.

(ii) The Authority notified the Embassies of subject countries in India about the receipt of fully documented application made by the applicant before proceeding to initiate the investigation in accordance with sub-rule (5) of Rule 5 supra.

(iii) According to sub rule (2) of the rule 6 supra, the Authority forwarded copy of the said initiation notification to the known exporters, importers, industry associations, embassies of the subject countries and to the applicants and gave them an opportunity to make their views known in writing.

(iv) According to sub-rule (3) of Rule 6 supra, the Authority provided a copy of non confidential version of the application to all the known exporters in subject countries and their embassies in India. As per Rule 6 supra, the Authority provided a copy of the relevant questionnaire to all the known exporters and their embassies in India. The Embassy of subject countries in New Delhi were also informed about the initiation of investigation and were requested to advise the exporters/producers from their countries to respond to the questionnaire within the prescribed time. A copy of the letter and questionnaire sent to the following exporters and producers were also sent to the respective embassies along with the name and address of the exporters.

1. M/s. Jungdo Chemical Company Ltd. South Korea
2. M/s. Kodak Polychrome Graphics Singapore Pvt. Ltd, ( KPG) Singapore.
3. M/s. Fuji Offset Plates Mfg. Ltd, Singapore
4. M/s. GED Limited, Bulgaria.
5. M/s. Fuji Photo Film (Malaysia) Sdn. Bhd. Malaysia
6. M/s Kodak Polychrome ( KP) , Bulgaria

(v) In response to the initiation notification, M/s Kodak Polychrome Graphics, Singapore (KPG, Singapore), an exporter and M/s Kodak Polychrome, Bulgaria (KP, Bulgaria) , the producer responded to the exporters questionnaire and submitted substantial information. Their information was subsequently verified by the Authority after conducting on site verification at the premises of the cooperating exporters and a verification report was issued to the cooperating producer and exporter for their comments. The comments received from the producer and exporter has been examined and are reflected in the disclosure statement. Another exporter M/s GED has stated that it did not produce or sell the subject goods in Bulgaria or in any other country. GED has stated that they are an authorized dealer for Kodak in Bulgaria to promote, market and sell as well as to provide installation of technical services/maintenance of the equipment on the territory of Bulgaria. The equipment covered by them were CTF/Image Setters, CTP, Trend Setter News Thermoflex, Froofers, Scanners, work flow Prinergy, Brisque PSM. In view of this submission, the Authority has noted that M/s GED was not a manufacturer or seller of the subject goods. None of the other exporters have submitted the information to the Authority in the form and manner prescribed in the exporter's questionnaire.

vi) A questionnaire was sent to the following known importers/user associations of the subject goods for necessary information in accordance with Rule 6(4):

#### Associations

- All India Federation Of Master Printers, New Delhi 110024
- The Bombay Master Printers Association
- Mumbai 400018
- West Bengal Master Printer Association
- Kolkata 700014
- The Madras Printers & Lithographers Association, Chennai

- Delhi Printers Association, New Delhi

#### Importers

- Kapoor Sales India Private Limited, Chennai
- M S Graphics Private Limited, Calcutta W B
- Newstech India Private Limited, Mumbai
- Harison Agencies, New Delhi
- 5.Jagmohan Enterprises, New Delhi-Pin – 110002
- Alpha India Corpn, New Delhi

#### Users

- Npt Offset, Chennai - 600 014
- Rapid Scan, Chennai - 600 014
- Mwn Press, Chennai - 600 005
- Rathna Offset, Chennai - 600 014
- Southern Offset Printers, Chennai - 600 006
- Thomson Press (I) Ltd, Faridabad- 121007
- Brijwasi Art Press, Noida - 201301
- Paras Offset, New Delhi
- Dewan Offset Printers ( P ) Ltd, New Delhi - 110015
- Gopsons Paper Ltd, Noida - 201301
- Press Tech Litho, Greater Noida
- Kaveri Printers, Delhi
- Jaina Offset, Dariyaganj, Delhi

- Nutech Photolithographers, New Delhi - 110020
- Art Waves, New Delhi - 110020
- Sonu Printers, New Delhi – 110020
- Everest Press New Delhi - 110020
- Silverpoint Press Pvt. Ltd  
Mumbai - 400013
- Nirman Associates  
Mumbai - 400013
- Sahaya Print Services  
Mumbai - 400013
- Pratik Offset  
Mumbai - 400004
- Luv Kush  
Mumbai
- Bartaman  
Kolkata
- Janambhoomi Press Pvt Ltd  
Assam
- Bhabani Offset & Imaging Systems Pvt Ltd  
Guwahati - 781007
- Genesis Printers & Publishers Pvt Ltd  
Guwahati - 781024
- Vista Print Pvt Ltd  
West Bengal
- Neutral Publishing House Ltd  
Ranchi -834001  
Jharkhand

## Newspapers

- **Amar Ujala, Uttar Pradesh**
- Daily Thanthi  
Chennai
- Divya Bhaskar  
Surat - 394210
- Eenadu Newstimes  
Hyderabad
- Hindu  
Chennai
- INDIAN EXPRESS  
New Delhi
- Jagran Publications Ltd.,  
Kanpur
- Kumudam Publication  
Chennai
- Malayala Manorama  
Kottayam
- Mathrubhumi Printing And Publishing Co Ltd  
Calicut
- Rajasthan Patrika Limited  
Jaipur
- The Printers Mysore(Ltd)  
Bangalore

vii) In response to the above notification, following importers, users and their associations have responded to the Authority:

1. All India Federation of Master Printers
2. M/s Kapoor Imaging.

3. West Bengal masters printers Association.
4. MS Graphics Ltd.
5. M/s Newstech
6. All Bengal Printers Association.
7. Madras Printers & Lithographic Association.
8. Salem District Offset Printers' Association.
9. M/s Allied Enterprises, New Delhi

(viii) The submissions of all the printers and associations have been examined by the Authority and have been appropriately dealt with in the final findings. It is stated that subsequent to the initiation of the antidumping investigation the import statistics of product under consideration which was filed by the domestic industry was kept in the public file for information of all interested parties. Subsequently, a copy of culled out data of the subject goods (as defined in the product under consideration) was also kept in the public file and it was inspected and copies were made available to other interested parties who so requested after inspection of public file. With regard to the claim of confidentiality, it is stated that the designated authority, upon being sufficient reason given to it by various interested parties have treated the financial reports of domestic industry ( M/s Technova Imaging systems Pvt Ltd, Mumbai ) and transaction wise import information giving import qty and price and other adjustments of the importers data as 'confidential'. After the public hearing, a copy of the non-confidential version of the financial statements of M/s. Technova Imaging System was also kept in the public file for information to all concerned. The authority also communicated to various interested parties about the availability of this information in the public file when they made request to the authority to for collecting copies of these documents.

ix) A copy of the non-confidential application was also provided to other interested parties, wherever requested.

x) The Authority kept available non-confidential version of the evidence presented by various interested parties in the form of a public file maintained by the Authority and kept open for inspection by the interested parties as per Rule 6(7).

xi) Additional details regarding injury were sought from the applicant, which were also received. The Authority sought and verified all the information it deemed necessary for the purpose of determination of dumping and resulting injury. The Authority conducted on the spot investigation of the domestic industry to the extent considered necessary. The cost of the production of the domestic industry was also analysed to work out the cost of the production and the cost to make and sell the subject goods in India on the basis of Generally Accepted Accounting Principles based on the information furnished by the domestic industry so as to ascertain if anti dumping duty lower than dumping margin would be sufficient to remove injury to the domestic Industry.

xii) The Authority held a public hearing on 5<sup>th</sup> January, 2007 to hear the interested parties orally, which was attended by a number of interested parties. The parties attending the public hearing were requested to file written submissions of views expressed orally. The Authority in this finding has considered the written submissions thus received from interested parties. The parties were also asked to file rejoinder submissions on views expressed by other interested parties.

xiii) Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigations, or has significantly impeded the investigation, the Authority has recorded findings on the basis of the facts available.

xiv) The Authority has considered data relating to cost of production and selling price of all interested parties as confidential as it would give competitive advantage to their competitors. The other information has not been considered as confidential unless the responding party has given sufficient justification for keeping the information as confidential.

xv) \*\*\*\* in this notification represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules on merits. In accordance with Rule 16 of the Rules supra, the essential facts/basis considered for these findings was disclosed to known interested parties on 25<sup>th</sup> July and comments received on the same has been considered in Final Findings. Post disclosures, the following interested parties have submitted their comments

1. M/s Allied Enterprises
2. M/s. KP, Bulgaria and M/s KPG Singapore.
3. M/s. Kapoor Imaging
4. M/s. All India Federation of Master Printers
5. Domestic Industry
6. All Bengal Printers Association

The submissions made by all these interested parties have been taken into account and dealt with at the relevant heads in this final finding.

xvi) Investigation was carried out for the period starting from 1 April 2005 to 31<sup>st</sup> March 2006 (12 months) i.e. the period of investigation (POI). The examination of trends in the context of injury analysis covered the period 2002-03, 2003-04, 2004-05 and the POI.

## B. PRODUCT UNDER CONSIDERATION, LIKE ARTICLE AND DOMESTIC INDUSTRY:

## B1: PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

5. The product under consideration in the present investigation is Pre-sensitized Positive Offset Aluminum plates (also referred to as “ PS Plates” or subject goods). The subject goods is primarily used in the printing establishments. There are various kinds of Aluminium Offset Plates, designed to suit the quality, speed & cost requirements of the users, and the imaging technology available to them e.g. Non-sensitised Grained Plates; Pre-sensitised Plates (Positive or Negative working); Digital Plates (Thermal or Violet or UV sensitive). The thickness of the subject goods ranges between 0.15 mm to 0.40mm. The present application covers PS PLATES of all types of thickness ranging from 0.15 mm to 0.40mm with a variation of 0.03mm on either side.

6. PS Plates serve as an image-carrier on an offset printing machine, and is the final link in the lithographic offset printing process. It is used by the printing Industry on sheet-fed & web-fed offset printing machines for printing of newspapers, flexible packaging materials, books, general commercial printing, and stationary, business forms. The subject goods are manufactured from coils or sheets of “litho-grade” Aluminium by electro-chemically treating the surface, followed by photo-sensitive coating, drying, and cutting the sheets to required dimensions. The subject goods falls under Chapter 84 of the Custom Tariff Act, 1975. While the classification of the PS plates at the eight digit level is 84425020, the subject goods are reported to have been imported under sub-headings 37013000, 37040090, 37051000, 76069190, and 76069290 as well. However, the Customs classification is indicative only and is in no way binding on the scope of the present investigation. Subsequent to the initiation, various interested parties have submitted that scope of the product under consideration should be clarified so that it does not include other products like negative plates and digital plates. The Authority has examined the contention of other interested parties and it holds that product under consideration does not cover negative plates and digital plates,, negative offset plates and all plates other than “Pre-sensitized Positive Offset Aluminum plates with thickness ranging from 0.15 mm to 0.40mm with a variation of 0.03mm on either side” are outside the scope of the investigation.

7. Rule 2(d) of AD Rules defines Like Article as

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

8. The applicants have claimed that the subject goods, which are being dumped into India, are identical to the domestic like product produced by the domestic industry. There are no differences either in the technical specifications, quality, functions or end-uses of the dumped imports and the domestically produced subject good. On the issue of like article, some of the interested parties have stated that the domestic industry is considering their top quality high priced plates and the imported PS plates come in the various plates known as short run, medium run and high run. They therefore, have disputed the domestic industry's claim of comparing the indigenous plates with the plates imported from the subject countries as one like product. It has also been stated that the plates imported by them do not have high overhead costs unlike the Indian manufacturers.

9. On the other hand, it has been submitted by the domestic industry that the issue of the quality of the plates manufactured by the Domestic Industry has been introduced by the opposing interested party. It has also been submitted that such arguments are frivolous and only made with a view to distract an objective investigation into the dumping from the subject countries. No technical or scientific evidence has been provided to substantiate this issue. It has also been submitted that the subject goods are produced in various types whether short run, long run or medium run. All the so called grades/types/forms of the subject goods are the subject matter of this petition within the specific width size as mentioned in the said Initiation Notification. It has further been submitted by the domestic industry that the Petitioners are manufacturing all grades and types of plates which are included in the product under consideration, which can clearly complement and substitute the dumped subject goods. Thus, there is no difference in the subject goods produced by the domestic Industry and imported from the subject countries. It has also been submitted that while the said importer is only importing the so called one quality of plates, which is clearly within the purview of the investigation, it does not absolve his imports from the said allegations made in the Petition and thus the process set by the Designated Authority has to be complied with. On the issue raised in the submissions as regards the marketing cost incurred by the manufacturer, or the power cost or the state of the art production line, it has been submitted that the Korean Manufacturers / Exporters have not complied with the timelines framed by the Designated Authority and have also not submitted any information as mandated under the Exporters Questionnaire, which requires submitting greater and credible information related to the investigation.

10. The Authority has examined the contention of all interested parties and after examination, it is noted that short run, medium run and long run denotes the number of copies or impressions that could be made out of the PS Plates. However, none of the exporters from subject countries with the exception of M/s Kodak Bulgaria and M/s KPG, Singapore have cooperated with the investigation and submitted any data regarding these different grades or variants of the subject goods. Even the sole cooperating exporter M/s KP, Bulgaria and M/s KPG, Singapore have not submitted or classified their subject goods in these three grades or commented any thing on

these different types of runs. None of the interested parties have submitted any evidence that these three variants of the subject goods imported from subject countries are not like products to the subject goods produced by the domestic industry. The Authority considers that different types of subject goods are produced from the same production technology, manufacturing process, raw materials, plant & equipment and perform the same general purpose. There is a great amount of substitutability between different types of subject goods. Even though the product has been grouped in discrete types according to thicknesses, and runs, these specific characteristics merely differentiate various types of subject goods. . The imported product is also used by same category of consumers. Further, neither the exporters nor the interested parties have disputed the fact along with evidence that there is any difference in the subject goods imported from subject countries and the subject goods manufactured by the domestic industry After examining the claims, the Authority holds that the subject goods produced by the domestic industry and produced and sold by the subject countries being technically and commercially substitutable are considered as 'like articles' under the Anti Dumping Rules. Therefore, for the purpose of the present investigation, the subject goods produced by the applicants in India are being treated as 'Like Articles' to those being imported from the subject countries. Post disclosure, none of the interested parties have made any comments with regard to product under consideration and like article. In view of that, the authority confirms the product under consideration and like article as determined in the disclosure statement.

## B2: DOMESTIC INDUSTRY

11. Rule 2(b) defines domestic industry as under:-

*(b) "domestic industry" means the domestic producers as a whole engaged in the manufacture of the like article and any activity connected therewith or those whose collective output of the said article constitutes a major proportion of the total domestic production of that article except when such producers are related to the exporters or importers of the alleged dumped article or are themselves importers thereof in which case such producers shall be deemed not to form part of domestic industry:*

It is noted that the application was filed by M/s. Technova Imaging Systems (P) Limited, (Technova) and M/s. Stovec Industries Limited ( Stovec) . From the examination of the information on record, it is noted that the collective production of the aforesaid producers constituted a major proportion of the total domestic production of the like article and therefore they represented the domestic industry within the meaning of Rule 2(b) of the Rules supra and they have the required standing to file the application under rule 5(3)a of the Anti dumping rules.

Subsequent to the initiation, another domestic producer of the subject goods M/s Lastra Niraj Pvt Ltd has submitted the information in the form and manner of domestic industry questionnaire. The Authority has therefore taken all three producers data into account ( which account for entire production of subject goods in the country) for determining the injury of domestic industry as a whole. Post disclosure, none of the interested parties has submitted any comments with regard to standing and domestic industry status in this investigation. In view of that, the authority confirms the domestic industry and standing determination made in the disclosure statement.

Issues raised by Various Interested parties with regards to import data, confidentiality, monopoly position and procedures followed by the Authority and Other issues :

Views of the interested parties

12. In reply to the initiation notification, various interested parties requested the Authority for transaction wise import data of the subject goods from subject countries which have been taken into account by petitioners when they filed their application to the Authority. They also requested the Authority to make available /place in the public file the balance sheet and financial accounts of M/s Technova imaging system which was the major part of the domestic industry. In their later submission, they also asked the culled out data of the subject goods from subject country which related to product under consideration. Subsequently, they also requested the Authority to place in the public file the soft copy of the import statistics of the subject goods from subject countries. They also wanted the basis on which these import statistics of the subject goods have been culled out by the domestic industry. Various interested parties representing importers, exporters and users reiterated their submissions on the issue of the confidentiality of the balance sheet of M/s technova imaging systems.

13. It has been submitted by some of the interested parties representing users and importers that the domestic industry has used the import data selectively in terms of the transactions as well as the ports to arrive at misleading results. It has been added that they ought to have disclosed transactions which have been actually "selected" by them to build up their case and the reasons for exclusion of other transactions. In the absence of such information, respondent user industry is being denied an opportunity to have access to the relevant data and to offer its appropriate comments. They have also added that imports from Malaysia are below de minimus and they have requested the authority to examine this aspect. On the issue of confidentiality many interested parties have commented upon the fact that balance sheets of Technova Imaging Systems cannot be kept as confidential.

14. On the issue of monopoly, it has been submitted that M/s Technova and M/s Stovec are not two different organizations in so far as production of P.S. plates are concerned, as Stovec and Technova have completed the formalities for the transfer of the assets of Stovec's Graphics Division to Technova on 01.07.2006. It has been

added that the intention of the petitioner behind the anti dumping application was not only to safeguard their own interest from foreign competition but also to create a monopolistic environment in India in this particular range of product and pass on their inefficiency to others. A number of interested parties have raised the contention that with the transfer of the Graphics Division of Stovec to Technova, Technova is in a position to create a monopolistic environment in India for the product concerned. The Designated authority has no jurisdiction to examine the issues relating to Monopolistic and Restrictive Trade Practices.

15. Some of the interested parties representing printers association have submitted that their printing industry is predominated by Small and Medium units and a large pool of employees are engaged in this sector. Approximately 40% of India's total Industrial output and over 40% of India's total exports come from the SSI sector. Over 1 crore Small Scale Industries can provide direct employment of about 285 lac persons and indirect employment to a very huge number. Over 83% of the Industrial Employment comes from the SSI Sector but the SSI units are not cash rich and vulnerable to outside onslaught. Various interested parties representing importers and users have protested against the proposed imposition of antidumping duty on import of pre-sensitized positive offset aluminum plates. They have added that imposition of duty would create a monopoly in this industry and which would be controlled by the domestic industry to the extent of 90% of the total production of plates. These interested parties in their submissions before the authority have voiced concerned concern that imposition of anti dumping duties would cause an irreparable harm and injury to the small printers, small and medium size newspapers. They have further added that imposition of duty would create a monopoly as the investigation had been initiated at the instance of big companies who continue to enjoy monopoly power. Hence the monopolistic threat from any units may jeopardize the health of all small and medium printing units.

16. M/s. TPM Consultants, on behalf of cooperating exporter M/s. Kodak, Singapore has stated that investigations against Singapore is required to be terminated as there is no known production facility of subject goods in Singapore. They have requested the Authority to clarify the scope of the product under consideration as all other types of printing plates excluding positive offset aluminum plates should be beyond the scope of the present investigation. They have also added that there is insufficient disclosures to the interested parties and it has also been added that the annual report of the domestic industry should not be kept confidential. They have also added that the petition does not contain all the necessary information. They have also added that PS Plates of thicknesses not produced by the domestic industry should be excluded from the purview of the product under consideration.

17. With regard the takeover of unit of one petitioner by the other petitioner, It has been submitted by the domestic industry that anti dumping proceedings are fault based proceedings, where on a finding of the relevant ingredients of the fault, the

Hon'ble Designated Authority is mandated to cure the fault in the manner statutorily prescribed. It has also been submitted that the Hon'ble Designated Authority has consistently taken a view that anti dumping duty does not restrict imports, and ensures that open and fair competition is re-established. It has also been held that fair competition on the Indian market will not be reduced by anti dumping measures. The domestic industry has further added that in the present case, there is clearly a very high margin of dumping; the exporters who have caused material injury by their dumping have chosen not to cooperate. In these facts, any attempt to dilute or hijack the imposition of duty based on the so called interests of domestic actual users would render the entire act and rules nugatory and otiose. Further, it has also been submitted that during the Period of Investigation the Petitioners were stand alone companies who were independently producing and marketing the products. As regards the allegations of creating a monopolistic environment is concerned, it is submitted that this Hon'ble Authority has the power to investigate only dumping, injury and the causal link between dumping and injury, thus recommending the imposition of anti-dumping duties. Thus, this is not the appropriate forum under which monopolistic issues can be addressed or investigated.

18. On the issue of adequacy and accuracy, it has been submitted that the issues raised in this behalf is frivolous in as much that the Petitioners have placed extensive information in the non-confidential petition. Apart from quoting relevant sections and jurisprudence on the confidentiality, there are absolutely no relevant instances wherein the Counsel for the Petitioners has listed the deficiencies which have any merits. In fact, the procedure is for the Designated Authority to examine the confidentiality aspect and accordingly keeping the best interest of all parties disclose the information which is not required to be kept confidential and disclose the same to the interested parties. It has been added that it is a usual practice of the Designated Authority in numerous investigations to have accepted the import data filed on the basis of providing private source data which has a limited reach as compared to the official statistics of import covering all ports as sourced from DGCI&S. In the instant case, the Petitioners have clearly stated in the Petition the reasons as to why the data as provided by the DGCI&S could not be used for the purposes of initiation. The reasons for not using the DGCI&S data, was that for the purposes of ascertaining the imports of the subject goods, transaction-wise data is required, since the subject goods were found to have been imported and cleared under the other tariff heads apart from the ITC heading it should fall under. Further, in the normal course the DGCI&S publishes the import data on a monthly basis which provides only a summary of imports under each heading and therefore the imports could not be accurately ascertained as there are other products included in same tariff heading. It has also been submitted that the private source data information is collated from the Customs daily lists covering all the major ports wherein the said product was being dumped. The Agencies such as Eximnet and IBIS provide this data which have been relied upon and accepted by the Hon'ble Domestic Authority in many anti-dumping investigations. Further, in case if there are two or more sizes of the subject goods which have been imported in a consignment, the same information has been captured

by the Eximnet, but the same has not been provided by DGCI&S. These issues have been highlighted and presented to the Hon'ble Domestic Authority. Therefore, the Petitioners were forced to rely upon private source data which it did in the instant case and the Designated Authority has in this case rightly initiated the investigation similar to the other investigations.

19. The domestic industry has further added that the Petitioners have placed in the public domain not only the summary of the imports but also placed in the public file raw data of the imports as made available by the private source i.e. Eximnet. The said imports data is easily available in the public domain and the same can be procured and the analysis can be verified by any of the interested parties. The Petitioners have also at Annexures VB and VC of the non-confidential petition made detailed notes as to the conversion formulas used to convert the data from Kgs. to Sq. M and the methodology used to compile the data. As regards the information of the price lists to be disclosed, it has been submitted that the format of the standard questionnaire does not specifically request the petitioning industry to disclose or produce information as to price lists, the same is in fact the burden of the exporters as requested in the Exporters Questionnaire. It is also worth adding that this information has always been accessible on the internet site of one of the petitioners i.e. Technova. It is also to be noted that the price lists is not reflective of the fair selling price and thus cannot be construed to be reflective of the market prices, as there are other producers in the domestic market leave aside the dumped import prices at which they are sold in this market.

20. On confidentiality, it has been submitted by the domestic industry that while the Production and Sales data in volumes has been disclosed in the non-confidential petition, the Petitioners have not disclosed the values for the same as they are confidential and would be detrimental to the business of the Petitioners. The indexed figures clearly have been provided on the basis of which the interested parties can assess the trends for these parameters.

21. On confidentiality of the balance sheets of M/s Technova imaging systems, it has been added by the domestic industry that the balance sheet of one of the petitioners has been filed already with the copy of the non-confidential petition as it is a public listed company, while the accounts of the other company cannot be disclosed as the same is a private limited company and the disclosing the same would be compromised and may harm the business operations of the company.

22. With regards to inclusion of Malaysia, it has been submitted that the inclusion of Malaysia has clearly been made as their imports are above the deminimis limits as set out by the Anti-dumping Agreement and clearly injure the Domestic Industry. The law does not provide the Petitioners to exclude any country outside the purview of anti-dumping investigation because their volumes are very low. As per the data available at the time of the initiation, the data clearly shows the results as demonstrated in the petition which includes Malaysia as one of subject countries. .

### Examination by the Authority

23. On the issue of import statistics, the arguments of various interested parties have been examined. Subsequent to the issuance of initiation notification, it is noted that, the import statistics in the raw form i.e. complete listings of the various chapters in which the product under consideration was imported was kept in the public file for information to all interested parties. Subsequently, the culled out data of the product under consideration along with its basis was also kept in the public file as per the request made by various interested parties. Later, a soft copy of the same was also kept in the public file and all this information was given to those interested parties who so requested during the process of investigation. Some of the interested parties wrote to the authority asking for copies of this information during the process of investigation. It is further noted that all these interested parties were individually informed about the availability of these documents in the public file and copies were made and handed over to those interested parties who so requested. It is further noted that no comments have been received with regard to this issue thereafter.

24. On the issue of confidentiality, it is already stated in earlier paragraphs that the Authority has, after examining the request for the interested party (domestic industry & importer), have accorded confidentiality to the financial report of M/s Technova Imaging Systems Pvt Ltd, a domestic industry ( being financial report of private limited company) and import quantity and values along with its adjustments actually incurred by the importers ( various importers ) during the process of investigation in terms of rule 7 of the anti dumping rules. Post disclosure: some of the interested parties representing importers and users have reiterated their earlier submissions that in the absence of proper annual reports, they are unable to offer any meaningful comments on the issue of confidentiality. They have further pointed out that balance sheets, profit and loss accounts etc. cannot be claimed as confidential. It has further been submitted that no proper explanation has been offered by the domestic industry claiming confidentiality in this regard. The matter has been examined. It is noted that the domestic industry had claimed confidentiality for their annual reports stating that theirs' is a private limited company whose annual accounts are not available in the public domain. It was also submitted by them that their annual accounts/financial reports contain business sensitive information and the release of such information would cause adverse effects on M/s. Technova. The matter was examined by the Authority and after examination, it was held that financial reports/annual accounts do contain business sensitive information, and the domestic industry could be adversely affected with the release of these information. It is also noted that annual accounts of the private limited companies are not in the public domain. In view of the above, it is stated that the authority has rightly accorded the confidentiality to the financial reports or annual accounts of M/s. Technova. It is also noted that a non-confidential summary of the Annual accounts of M/s Tecchnova for the past three financial years in the

index form was placed in the public file for information to all concerned as required under rule 7.2 of the anti dumping rules.

25. On the issue of granting de minimus margin to imports from Malaysia, it is noted that the imports from Malaysia are higher than de minimus margin by the reason of volume. Therefore, Malaysia has rightly been taken as one of the subject countries in this investigation.

26. On the issue of monopoly, the authority has examined the contentions of all interested parties and after examination, it is noted that the purpose of antidumping duty, in general, is to eliminate dumping which is causing injury to the domestic industry and to re-establish a situation of open and fair competition in the Indian market which is in general interest of the country. With regard to the subject case, it is noted that all three domestic producers which are part of domestic industry in the subject investigation, are different companies during the period of investigation. All these companies were independently producing and marketing the subject goods in the domestic market. No evidence has been placed by any interested parties with regard to making a cartel or creating a price restrictive behavior. With regard to allegation of creating a monopolistic environment, it is noted that the authority determines dumping, injury and causal link between the dumped imports and injury to the domestic industry before recommending the imposition of anti dumping duties or otherwise. From the antidumping rules, it is not borne out that a company, even if monopolistic, is prohibited from requesting to the authority actions against the unfair imports.

27. With regard to clarifying the scope of the product under consideration, it is noted that the same has already been clarified under the appropriate headings in the earlier paragraphs pertaining to product under consideration and like article.

28. It has been submitted by various interested parties belonging to importers and users that the authority should have taken the export prices of the subject countries into India in terms of various runs i.e. short run, medium run and long run products. It has also been submitted by them that all the plates imported from China PR belong to short run type and therefore, a comparison for price undercutting as well as price underselling analysis should necessarily be made with their domestic prices of the short run type only. They have also argued that such type wise information was never asked from the importers as well as other interested parties at the time of initiation.

29. The domestic industry, on the issue of short run, medium run and long run products, has submitted that there are no industry wise standards for classifying the

products into short run, medium run or long run. They have also added that different producers can claim these runs on the basis of different run lengths (e.g. medium run could vary from 50,000 to 75,000 prints for some producers and 75000-1,00,000 prints for another producer). They have also added that there no consensus that how many prints would be treated as short, medium or long run and the global producers of the product concerned do not classify the plates in terms of various run lengths.

30. The matter has been examined. It is noted that the lone cooperating producer and exporter from Bulgaria and Singapore respectively does not classify the products on the basis of various run lengths as they have not submitted the information on the basis of types pertaining to run lengths. It is also noted that at the time of initiation the domestic industry had not claimed that the subject goods is sold on the basis of various run lengths. After initiation and subsequent verification, it was noted that the domestic industry does not sell its products on the basis of run-lengths. From the investigation it is also not borne that there is global consensus on prescribed technical criteria with regard to different run lengths. Though a few importers have submitted copies of bills of entries showing the subject goods in terms of short and medium run lengths, it is not borne out from the import statistics and responses filed along with the data received in import statistics that all the imports from China PR belong to short run types. It is also noted that none of the exporters from China PR, Korea RP and Malaysia has responded to the Authority by giving the information in terms of various run lengths. The sole exporter from Bulgaria does not classify the products in terms of these run lengths. In view of the above, the authority has taken the subject goods, as a whole, for determination of export price, price undercutting and price underselling. Likewise, for determination of injury margin landed price of subject goods as a whole have been compared with the non-injurious price of the domestic industry for subject goods, as a whole to determine the injury margin.

31. With regard to duties on Singapore, it has been contended that there is no producer of subject goods in Singapore and therefore duty should not be imposed on subject goods from Singapore. The matter has been examined and it is noted that M/s. Kodak Polychrome Graphics (KPG), Singapore is an exporter of subject goods for the goods originating in Bulgaria . It is also noted from import statistics that there are significant exports of subject goods in addition to the exports made by M/s. KP Bulgaria from Singapore and therefore, it appears that there could be other exporters apart from M/s. KPG Bulgaria from Singapore to India. In view of the above, the authority has rightly determined the dumping margin and injury margin of the subject goods coming in from Singapore.

32. A few importers have submitted that the landed price as per their imports are at much higher price than those being reflected by Eximnet statistics. It has also been submitted that the DGCI&S data was not disclosed to them. The matter has been examined and it is noted that transaction wise information with regard to raw data as well as the culled out data of the subject goods fom Eximnet have been placed in the public file after initiation and have been given to all the interested parties whomsoever

have made any requests in this regard. Later, the soft copy of these data including their analysis have been placed in the public file and were shared with those interested parties who made specific requests. A copy of the transaction wise DGCI&S data was also placed in the public file after blanking out the sensitive information. It is also noted that import volumes reported by Eximnet data are much higher than reported by DGCI&S data. It has been noted that discrepancy in these two sources of information could be because of the fact that the import statistics from Eximnet source have captured the data from many other customs subheads than that reported by DGCI&S. For example, the import volumes reported by one importer from Korea RP are much higher than what is reported from DGCI&S data from that country. Also, import volumes from the cooperating producer and exporter from Bulgaria and Singapore are much more than that reported from DGCI&S statistics. Therefore, after examining the contentions of all the interested parties it is held that the volume and the price of the imports of the subject goods from subject countries have been correctly computed by the authority. With regard to the submissions made by few importers that their import prices should be taken into account for determination of dumping margin and injury margin, it is stated that the imports made by these importers do not indicate the total volume of imports from subject countries and therefore, the determination of correct import prices from subject countries is not possible from the limited data made available by these importers.

33. With regard to computation of normal value and the NIP, it is stated that the methodology and computation of normal value and NIP has been informed confidentially to the cooperating exporter and domestic industry respectively. With regard to computation of normal value from non-cooperating producers and exporters, the same has been determined through facts available as per the consistent practice of the authority and as per the antidumping rules

34. With regards to the issue raised by various interested parties comprising users and importers concerning exclusion of UK from the purview of investigation, it is noted that imports from European Union (which includes UK) are at a much higher price and the domestic industry has not alleged in their submissions that imports from EU are dumped.

35. Various interested parties comprising users and importers of the subject goods have submitted that they were prevented from making any arguments on injury aspects as revised injury information was filed by the domestic industry only on 22<sup>nd</sup> December 2006 and copy of such revised data was available to interested parties on 5<sup>th</sup> January 2007. It has also been submitted that they were constrained to request the designated authority to grant them another opportunity for public hearing as soon as possible as the hearing granted could not be such to be effective as contemplated under the law and principle of natural justice. The contention has been examined by the authority and it is stated that injury information with regard to domestic industry (comprising approximately 90% of the production) was made available to all

interested parties after initiation. The domestic industry filed some information on 22<sup>nd</sup> December 2006 which corrected the figures of price under-cutting and price underselling after it was pointed out by one of the interested parties. It is also noted that after initiation, the third and remaining domestic producer M/s. Lasta Niraj, also submitted the required information to the authority and their information together with the information of other domestic producers were made available to all interested parties immediately after the public hearing. It is also noted that full opportunity has been provided to all interested parties to submit and rebut the information presented by other interested party. It is also noted that the information submitted in response to initiation notification, and those submitted by written submissions and rejoinders along with subsequent letters or information provided to the designated authority have been taken into account by the authority in this final finding.

36. The issues raised by various interested parties with regard to injury and causal link have been examined by the Authority. The volume and price effect of the dumped imports from subject countries and their impact on the domestic industry on the basis of 15 injury parameters have been analyzed and on the basis of the examination, a conclusion has been drawn by the Authority.

37. With regards to the issue raised by domestic industry about exclusion of outward freight in determination of non injurious price, it is noted that outward freight is not taken into account by the Authority in determination of both the landed value of the dumped imports and non injurious price of domestic like product (subject goods). With regards to the issue of lower raw material cost and utilities taken by the Authority for determination of non injurious price of the domestic industry, it is noted that as per consistent practice, the Authority has considered the best consumption level of raw materials and utilities in determining non injurious price of domestic industry. On the issue of lower capital employed and certain other expenses taken by the Authority , it is noted that the Authority has taken the verified data of the domestic industry for determination of non injurious price of domestic industry.

38. It is noted that the domestic industry has submitted information with regards to threat of material injury apart from the material injury on account of dumped imports from subject countries. The factors which they have mentioned in their claim include rapid rise in volume of imports from subject countries and decline in the prices of subject goods from subject countries. They have requested the Authority to examine their claim for threat of material injury in addition to having suffered material injury on account of dumped imports.

39. With regards to the response filed by M/s KPG Singapore and M/s KP Bulgaria, it has been submitted by the domestic industry that the said exporter and producer did not submit non confidential copy of the exporter's response. The matter has been examined and it is stated that a non confidential copy of the exporter's response was duly placed in the public file and shared with interested parties during the process of investigation.

40. During the investigation, M/s Kodak (China) graphic communication Co Ltd has submitted that they had not exported the subject goods during the POI and the company intended to export to India in due course. The company has expressed its intention to apply for a new shipper review in due course if the Authority imposed anti dumping duties. It is noted that if M/s Kodak (China) graphic communication Co Ltd did not export during POI , then they can make a request to the Authority for a review under rule 22 of the Anti dumping rules.

41. The domestic industry has requested the Authority to impose anti dumping duties on fixed duty basis and denominate the same in Indian rupees.

42. Post disclosure, M/s KP Bulgaria and M/s KPG Singapore confirmed their willingness for price undertaking and requested that the required formats for price undertaking should be made available to them. The Authority sent a copy of the format of price undertaking to the exporter, however, no such request was received by the Authority.

### C. - DETERMINATION OF DUMPING MARGIN

#### C1: NORMAL VALUE FOR Bulgaria

##### Views of interested parties:

43. The exporters have denied that there is a dumping by Kodak into India and they have added that import price from Bulgaria is higher than the European Union and therefore, no injury should be caused by the imports from Bulgaria. They have also added that normal value assessed by the petitioner is highly overstated. The domestic industry, on the other hand, has challenged the claim of cost of production along with SGA and profits made by M/s. KP, Bulgaria. The domestic industry has further raised questions on the relationship between M/s. KP Bulgaria and M/s. KPG, Singapore. During the process of investigation, the domestic industry has requested the authority to examine and suitably allocate the expenses of M/s. KPG, Singapore as well as M/s. KPG, India before determining the ex-factory export price of the cooperating producer and exporter.

##### Examination by the Authority

44. The Authority has examined the contentions of various interested parties. For examining the information filed by the cooperating exporters, the authority verified the records of M/s. KP Bulgaria, KPG Singapore as well as KPG India. It is noted that M/s Kodak Polychrome, Bulgaria ( KP, Bulgaria) responded to the Authority in the form and manner prescribed in the exporters questionnaire. It is noted that some deficiencies were observed in the response filed by the Company, which were later

rectified by the company. It is noted that M/s Kodak Polychrome has exported the subject goods through Kodak Polychem Graphics, Singapore (KPG, Singapore) and the orders for supply had been procured by Kodak Polychrome India (KPG India). In view of this, the Authority considered that M/s Kodak Polychrome, Bulgaria, M/s KPG, Singapore and M/s KPG, India are all relevant for determination of dumping margin. M/s KPG, India was directed to file responses to the questionnaire, which was received and analyzed by the Authority. The Authority verified the information filed by the three companies and the proposed determination is based on the verified information.

45. The investigation showed that Kodak Polychrome produces a number of products in Bulgaria. The majority of the sales of the product under consideration (named PP3 by the company) are for exports to other countries. However, the company has significant sales in the local market. As these sales are more than 5% of the export sales made to India, these have been considered as sufficient quantity for the purpose of determination of normal value.

46. The cost of production claimed by the producer was verified from the records maintained by the Company. Consumption norms for raw materials and allocation/apportionment of expenses between different products were verified and are found to be appropriate. The exporter has claimed cost of production on weight basis. However, the Authority has determined separate cost of production for different thickness of PP3 plates. For this purpose, the raw material cost has been worked out separately for different thickness of PP3 and the conversion cost has been considered and allocated in the similar way on square meter basis. Selling, general & administration costs have been apportioned on turnover basis.

47. The producer is found to have significant representative quantity of domestic sales. It was determined whether sufficient sales made were in the ordinary course of sales by comparing per unit selling price for each transaction with per unit cost of production. It was found that sales made by the company in the domestic market were in the ordinary course of trade. In those product types where the company is found to have representative domestic sales in the ordinary course of trade, the normal value is determined on the basis of weighted average selling price in the domestic market. For those product types where representative domestic sales do not exist, selling price of other representative sales has been considered after appropriate adjustments. Price adjustments have been claimed on account of royalty and license fee, which were verified from the agreements and payments made. Price adjustments on the basis of this verified information are allowed.

#### Export Price

48. Since Kodak Polychrome has made sales to its affiliated company KPG Singapore, it was examined whether transactions between Kodak Polychrome and KPG Singapore were in the ordinary course of trade. It was found that Kodak

Polychrome, Bulgaria was selling to KPG Singapore at pre-determined prices and such prices did not appear to reflect the prevailing market prices. In fact, the prices were fixed normally once in a year and remained the same throughout the period. Further, the prices realized by M/s. KPG Singapore from Indian importers were less than what was paid by M/s. KPG Singapore to M/s. KP, Bulgaria. Therefore, the Authority holds that transactions between Kodak Polychrome and KPG Singapore are not in the ordinary course of trade. The Authority, therefore, has considered selling price of KPG Singapore to independent customers in India for the purpose of determination of export price to India. Investigations have shown that KPG Singapore does not invoice the product to KPG India and all invoices are to unaffiliated customers. Export price is determined on the basis of weighted average selling price to unaffiliated customers, separately for each type (thickness). The export price is at FOB level except in few cases, where the transactions were on CIF basis. Price adjustments are proposed to be made on account of inland and ocean freight (as applicable) and expenses and profit of KPG Singapore and KPG India. KPG Singapore expenses are on account of management fee and selling general and administrative expenses. KPG India expenses are in terms of selling general and administrative expenses.

49. In their response to verification report, the exporter has objected to the proposed deduction on account of management fee paid by KPG Singapore and the level of profit considered for KPG Singapore stating that these are expenses incurred between related parties and therefore should not be deducted on the basis of same principle as was applied to selling price. It was further argued that these are in the nature of fixed expenses, regardless of any specific services rendered. Since no services were indeed rendered for PP3 during the relevant period, no adjustment was called for. It was also argued that a similar expense existed in respect of Kodak Polychrome in their books for sale in the domestic market. The Authority, however, holds that these expenses are in the nature of fixed overheads expenses and in a situation where sales have been made to related party, fixed expenses of related party are required to be reduced.

50. The normal value and the export price, determined separately for each type (thickness) , have been compared to determine the dumping margin. Weighted average dumping margin has been determined, considering the quantity of exports for each type (thickness) . The dumping margin so determined comes to 37% for subject goods manufactured by M/s. KP Bulgaria and sold by their affiliate M/s. KPG Singapore to India.

#### Other Exporters & Producers from Bulgaria.

51. As there was no response from any of the exporters from Bulgaria and there was no known producer and exporter from Bulgaria, the Authority has determined a residual dumping margin taking into account the normal value as determined for M/s.

KP Bulgaria. The export price has been taken as the lowest price of the cooperating exporter. The dumping margin is, thus, determined as 67%.

#### C1. Normal value for China PR

##### Views of interested parties:

52. The applicants have claimed that the China PR is a non-market economy country under the Indian Anti-dumping Rules. Therefore, the normal value in case of China is required to be determined as per the procedure described in the para 7 of the Annexure I to the Anti-dumping Rules. The applicants have also claimed that as per paragraph 7, the normal value is required to be determined on any of the basis i.e. domestic selling prices in a market economy third country or the constructed value in a market economy third country or the export prices from such a third country to any other country including India. However, if the normal value cannot be determined on the basis of the alternatives mentioned above, the Designated Authority may determine the normal value on any other reasonable basis including the price actually paid or payable in India for the like product duly adjusted to include reasonable profit margin.

53. For the purpose of determination of normal value in case of a non-market economy country, an appropriate third market economy country is required to be selected as the first alternative. The applicants suggested USA to be taken as the third country marketing economy in terms of the provisions of para 7 of the annexure 1 of the antidumping rules. Alternatively, they also proposed the normal value of China PR taking Korea RP as a surrogate country. And they had also done their workings for determination of normal value in China PR as the price paid or payable in India.

54. The claim of the of the petitioners that China PR is a Non Market economy has been disputed by interested parties representing importers and users for the reasons stated below:

- a) Although China PR is a Communist country but for the last few years they have slowly and steadily shifted from the orthodox and Protectionist economy environment to free economy as has been done by our country since 1990. Market economy in China PR at present have been substantially changed keeping in terms of Global Economic Environment. Hence what was applicable in 5 years before cannot be applicable at present in case of China PR.
- b) China PR have a steady growth of trade surpluses and a huge foreign exchange reserves of 1 Trillion Dollars.

- c) Capabilities of exporter in China PR to produce PS Plates at a price lower than the Indian manufacturers and going by the reasons for initiating an anti dumping investigation. Dumping duty cannot be imposed if prices are high in domestic market due to inefficient or other reasons of the domestic manufacturers and exporters in China PR are more competent and efficient and can produce goods at lower cost.
- d) China PR for the few years successfully kept the value of Yuan (currency of China) in terms of Dollar at such a level so that the export become cheaper when calculated in terms of Dollar.
- e) In a very recent move by the International Monetary Fund Executive Board, China PR and 3 other countries have been given more voice in setting policy of global economy matter
- f) Petitioners claim to choose USA as an appropriate market economy for establishing normal value is also unjustified because basic input cost like direct material, direct labour and direct overheads can never be the same in India, China PR and USA. Also, the domestic industry has not given any details of the calculation of the constructed normal value and the export price thereby preventing interested parties from making appropriate comments.

54. On the other hand, the domestic industry has submitted that on the issue of China being treated as Non Market Economy, Annexure I (Paras. 7 and 8) of the Anti-dumping Rules, clearly stipulate the applicable rules and procedures for exporters who are operating in non market economy countries. In this behalf, there is already a plethora of investigations wherein this Designated Authority has treated China as a non market economy country; this practice has also been adopted by developed economies such as EU and US. Thus, there is no tenable argument put forth by the importer in this behalf. Apart from the same, the onus squarely in this behalf is on the manufacturers / exporters from China PR to defend this allegations who have till date showed no intention of cooperating with the Designated Authority or filed any mandated response in this behalf. Therefore, the Designated Authority has to rightly proceed as per the rules and procedures followed by the Designated Authority in treating non-cooperative exporters operating in such economies. On the issue of selection of surrogate country, it has been added by the domestic industry that the Petitioners have provided credible evidence of providing the normal value in a market economy third country such as USA as it also considered of being the largest market in the world for printing plates. The Designated Authority has rightly examined the evidence obtained in this behalf and followed the procedure as laid down under the rules. Also, the Importer in this behalf has failed to make any credible evidence in this behalf during the mandated period and thus has made much generalized statements on this issue. It is to be appreciated by the opposing interested parties that the Petitioners have not only provided extensive back up information of methodology

used for constructing the normal value, but has also disclosed additional injury parameters as compared to the format laid down in the Application Proforma. The opposing interested party has been intentionally quoting anti-dumping standards without weighing the factual information presented in the non-confidential petition. As the Petitioners have clearly and transparently presented the effects of dumped imports and its injurious effect on the working of the industry, the opposing interested parties without addressing these material issues, they are sensationalizing the investigation with baseless and vague statements. This fact only re-enforces the issue that the Designated Authority should protect the Domestic Industry at the earliest by recommending preliminary duties at the earliest.

#### Examination by the Authority

55. In anti-dumping investigations concerning imports from non-market economy countries, normal value is to be determined in accordance with paragraphs 7 & 8 of the Annexure 1 of the Anti-dumping Rules. The Authority notes that none of the Chinese exporters have submitted any information to the authorities to rebut the presumption that they operate in non-market economy conditions. None of the Chinese producers have claimed that they should be granted market economy status. The submissions of the Indian importers cannot be taken into consideration for the purposes of rebutting the presumption that China is a non-market economy country. In view of the same, the authority holds that China is a non-market economy country for the purposes of this investigation. The Authority therefore proceeds to determine the normal value in accordance with paragraph 7 of Annexure 1 to the Rules.

56. It is noted that the normal value in China can be determined in the following manner:

- (a) on the basis of the price in a market economy third country, or
- (b) the constructed value in a market economy third country, or
- (c) the price from such a third country to other countries, including India.
- (d) If the normal value cannot be determined on the basis of the alternatives mentioned above, the Designated Authority may determine the normal value on any other reasonable basis including the price actually paid or payable in India for the like product duly adjusted to include reasonable profit margin.

57. The Applicants had suggested USA to be taken as the third country market economy in terms of the provisions of paragraph 7 of Annexure I of the Anti-dumping Rules. Alternatively, they had also determined the normal value taking Korea RP as a surrogate country. In addition, the domestic industry had also given its working for

determination of normal value taking price paid or payable in India. The Authority had proposed USA as the appropriate third country market economy and had invited comments and information from all the interested parties at the time of initiation of investigation. After the initiation, the proposal of selecting USA as a third market economy country was disputed and opposed by various interested parties on the grounds that the economic conditions of the USA and China PR are different and, therefore, USA should not be taken as third market economy country for the purpose of determining normal value for China PR. However, none of the interested parties in their submissions have suggested any other surrogate country or given any reasons for selecting that country and named producers and exporters from that country. Therefore, in the absence of the response or information regarding the prevailing prices and costs in USA or any suggestion along with evidence for selecting an alternative surrogate country, it is not possible for the Authority to determine the normal value for China under the above-mentioned (a) to (c) methods as laid down in paragraph 7 of Annexure I to the Indian Anti-dumping Rules at present. Under the circumstances, for the purpose of determining the normal value, the Authority had no alternative but to resort to determination of normal value for China on the basis of price paid or payable in India duly adjusted, as prescribed under the rules. While arriving at the normal value based on the price payable in India, the Authority has considered the consumption norms, conversion cost and other costs prevalent in India. A reasonable return had been added to the cost of production for arriving at the price payable in India. The normal value is, thus, determined as US \$ \*\*\*\* per Kg.

## EXPORT PRICE

58. It has been represented by some interested parties that The Government of China had recently slashed down the production cost of aluminum to make any product manufactured out of aluminum more competitive in the open market. Moreover, China had steadily and gradually opened up its economy. The export price to India have been very similar to the price of exports to other Asian countries. Further, export prices of Indian manufacturers were very similar to the P.S. Plates imports into India.

59. The issue has been examined and it is noted after examination that no exporter has given any response to the Authority after the initiation of anti dumping investigation from China PR. In view of the above, the export price has been taken from the import statistics as no cooperating exporter from China PR has cooperated in this investigation. Therefore, weighted average export price from China PR to India of the subject goods have been taken by the Authority for determination of export price of subject goods from China PR. The adjustments for ocean freight and marine insurance has been taken from the importers response and evidence placed before the Authority for these adjustments. After all the adjustments, the net export price for all exporters from China PR is determined as US\$ \*\*\*\* per Kg.

## E. DUMPING MARGIN

60. For the purpose of a fair comparison between normal value and the export price, the Authority has determined both the normal value and export price at ex-factory level. Both the normal value and export price pertains to the same period. Both the prices are free of taxes. Thus, the Authority considers that the comparison made constitutes a fair comparison. Considering the normal value and the net export price determined as detailed above, dumping margin is worked out as 48.41% of net export price.

### **Normal value determination for Korea RP, Malaysia Singapore**

61. There was no cooperation from any of the producers from these three countries. A request was received from M/s. Strategic Law Group representing M/s. Fuji Plates Manufacturing SDN Malaysia, who is an exporter for extension of time to file the response to the exporters' questionnaire. In their application, they submitted that their name was not in list supplied by the domestic industry and hence they could not receive the application directly from the authority. They requested three week's extension of time for filing the exporter's response. Though the extension was granted to them, no further submissions was received from that exporter and hence the Authority proceeded to determine the determine the normal value on the basis of best facts available as per Rule 6(8) of the Anti dumping rules.

### **Normal value for Korea RP**

62. With regard to these Korea RP, the Authority has determined normal value for the subject goods in Korea RP considering constructed cost of production including selling, general and administrative overheads and reasonable profit for subject countries. The constructed normal values for all producers and exporters from Korea RP is determined as US \$ \*\*\*\*/kg.

### **Normal value for Singapore**

63. With regard to Singapore, the Authority has determined normal value for the subject goods in Singapore considering constructed cost of production including selling, general and administrative overheads and reasonable profit for subject countries. The constructed normal values for all producers and exporters from Singapore is determined as US \$ \*\*\*\*/kg.

### **Normal value for Malaysia**

64. With regard to Malaysia, the Authority has determined normal value for the subject goods in Malaysia considering constructed cost of production including selling,

general and administrative overheads and reasonable profit for subject countries. The constructed normal values for all producers and exporters from Malaysia is determined as US \$ \*\*\*\*/kg.

**Export price of Singapore, Malaysia and Korea RP**

65. The export price has been taken from the import statistics as no cooperating exporter from these three countries have cooperated in this investigation. Therefore, weighted average export price from all three countries to India of the subject goods have been taken by the Authority for determination of export price of subject goods from Singapore, Malaysia and Korea RP. The adjustments for ocean freight and marine insurance has been taken from the importers response and evidence placed before the Authority for these adjustments. After all the adjustments, the net export price for all exporters from Singapore, Malaysia and Korea RP is determined as US\$ \*\*\*\*, US\$\*\*\*\* and US\$\*\*\*\* per Kg.

Names of producers and exporters/Countries	DM (US\$/Kg)	DM%
M/s Kodak Polychrome, Bulgaria and M/s KPG, Singapore	****	37.11
Others, Bulgaria	****	67.26
All Exporters, Malaysia	****	36.74
All Exporters Singapore	****	24.22
All Exporters Korea RP	****	58.47
All Exporters, China PR	****	53.69

**D. INJURY AND CAUSAL LINK**

**Views of Interested Parties:**

66. On the issue of injury to the domestic industry, exporters have stated that the cumulative assessment would be inappropriate in the given circumstances as import prices from Bulgaria are much higher than other countries. They have further disputed the claim of injury made by the domestic industry with regard to various injury parameters. On the issue of causal link they have added that there is absence of causal link in the present investigation. They have added that developments in technology or changes in the pattern of consumption could be the real cause of injury to domestic industry. They have further added that Kodak's exports to India are not undercutting the Indian prices and the injury margin on account of their exports to India is negative.

67. As per annexure-II (iii) of Anti dumping rules , in cases where 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 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.

68. The Authority notes that the margin of dumping in respect of each of the subject country is more than 2% and the volume of imports from each country is also more than 3%.

69. As far as the conditions of competition between imported products and the conditions of competition between the imported products and the like domestic product, the Authority notes that:

- (i) The subject goods have been imported from the subject countries under the same tariff classifications;
- (ii) The imported subject goods are commercial and technical substitutes of the domestically produced PS plates.
- (iii) The subject goods have been imported by the end users and other importers and the goods have entered the commerce of the country through similar channels;

70. Therefore, the Authority is of the view that the exports made from the subject countries compete in the same market, as these are similar products.

71. In view of the above, the Authority holds that it is appropriate to cumulatively assess the effect of dumped imports of the subject goods from the subject countries, on the domestically produced like article in the light of conditions of competition between the imported products and the like domestic product. Therefore, for the purpose of injury and causal link analysis, as discussed above, the dumped imports from the subject countries have been cumulated for examination of volume and price effects of dumped imports of the subject goods from the subject countries 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 Rules provide for examination of the impact of dumped imports on the domestic industry on the basis of evaluation of all relevant economic factors and indices having bearing on the state of domestic industry. For the purpose of this examination, the applicants constitute the domestic industry within the meaning of the term as defined under Rule 2(b) of the Rules. Subsequent to the initiation, another domestic producer of the

subject goods M/s Lastra Niraj Pvt Ltd has submitted the information in the form and manner of domestic industry questionnaire. The Authority has therefore taken all three producers data into account (which account for entire production of subject goods in the country) for determining the injury of domestic industry as a whole.

72. The domestic industry have submitted that share of imports from subject countries have increased manifold not only in relation to total imports but also in comparison to total demand and total production during the period of investigation as compared to the base year. It was submitted that the dumped imports from subject countries have affected the domestic prices and the price undercutting and underselling is significant during the period of investigation. The domestic industry has alleged that the market share, capacity utilization, profitability, return on investment, cash flow, growth etc. have declined over the injury investigation period. The sales of the domestic industry have increased, however the increase in sales is less than the increase in demand. Further, the domestic industry had alleged that the margin of dumping from subject countries is also significant during the period of investigation, which shows the difficulties being faced by the domestic. Industry in disposing of the subject goods.

73. On the other hand, the importers and the user associations submitted that the prices of PS PLATES have also come down for other countries and the demand for PS PLATES is high right from the year 2002-03 as compared to indigenous production and the indigenous industry has tremendously benefited by creating shortage. It has also been submitted that the decline in market share of the domestic industry is insignificant and sales volume of the domestic industry has increased as a result of increase in demand. Further, it was also submitted that there is no injury to domestic industry with regards to various mandatory parameters and there is an absence of causal link between the alleged dumped imports and injury, if any, to the domestic industry. It has also been added that total production of indigenous producers during 2005-06 was 10,430,000 Kgs and total import from the concerned countries during the said period was 989,853.79 Kgs. Total imports in comparison to production was only 9.49%. It is a matter of great concern how 9.49% import could jeopardize the sustainability of the petitioner company when the indigenous production is 90.51%. Moreover, 9.49% import as stated, should not be considered as rampant and significant dumping. They have commented with regard to the various injury parameters as mandated under the rules and they have concluded on the basis of their submissions that there is no material injury to the domestic industry on account of dumped imports from subject countries. With regard to the fall in the share of domestic industry, they have added that the decline in the market share could be due to rapid migration of domestic industry from analog plate to digital plate. Further, it has been added that the domestic industry is concentrating on exports. They have further added that there is an absence of causal link in this case as the price of imports from the subject countries do not have any direct or indirect bearing on the state of the domestic industry. They have further added that domestic industry injury,

if any, is on account of rising aluminium prices. They have also added that technology shift and obsolesce could be a cause for concern for domestic industry.

74. In the issue of migration of PP3 to digital plates, it has been submitted by the domestic industry that the digital plates have recently been introduced in the market which is less than 8% of the total plates consumption while considering the total plates consumption in this country. It has also been submitted that the positive plates consumption as opposed to other plates whether negative or digital is clearly designed to suit the output quality, speed and cost requirements of the users and the imaging technology available to them. As per the market intelligence of the petitioners, approx. 90% of the Indian printing offset industry primarily uses the positive working presented offset plates. The applicants have added that the submission on this issue made by the opposing interested parties is clearly unfounded and baseless in the facts of this case.

#### EXAMINATION BY THE AUTHORITY

75. Article 3.1 of the ADA and Annexure II of the AD Rules provide for an objective examination of both, (a) the volume of dumped imports and the effect of the dumped imports on prices, in the domestic market, for the like products; and (b) the consequent impact of these imports on domestic producers of such products, The authority is required to examine whether there has been a significant increase in imports, either in absolute term or relative to production or consumption in the importing member. With regard to the price effect of the dumped imports, the Authority is required to examine whether there has been significant price undercutting by the dumped imports as compared to the price of the like product in the importing country, or whether the effect of such imports is otherwise to depress prices to a significant degree, or prevent price increase, which would have otherwise occurred to a significant degree.

76. The Authority has taken note of the arguments of the interested parties on injury examination aspect and addressed the issues raised at appropriate places in this disclosure statement to the extent these arguments are considered relevant to the investigations. The Authority has examined the injury parameters objectively taking into account the facts before it and the arguments of the interested parties.

77. The Authority notes that all three domestic producers comprise of the total production of subject goods in India and therefore the injury analysis has been done with regards to the domestic industry as a whole. Therefore, the injury analysis has been done with reference to entire domestic producers of the subject goods in India and injury margin has also been determined taking into account the domestic industry which comprise of all domestic producers in India. With regards to determination of volume and value of the dumped imports into India, it is stated that the Authority has examined the data made available by DGCI&S as well as by Eximnet, a source which

collects and collates the data based on customs daily lists. It was noted that transaction wise import information provided by Eximnet with regards to the imports of subject goods from subject countries included the details of subject goods in terms of various sizes which are important in this investigation as size is an important parameter in the definition of product under consideration. Further, it was also determined that the subject goods are imported under various chapters heads and subheads and much of the imports of subject goods have not been captured from the records of DGCI&S as these are not from the heads where the subject goods are classified. In view of this, the Authority has gone by the transaction wise import data of the subject goods made available by Eximnet from the customs daily lists for determining the volume and price of subject goods from subject countries and countries other than subject countries.

78. An analysis of the injury parameters as envisaged under the Rules has been carried out in the following paragraphs:

Volume of Imports – Volume of imports of subject goods from subject countries in total imports and demand.

i)

	April 02 to March 03	April 03 to March 04	April 04 to March 05	POI (April 05 to March 06)
Imports from Subject Countries (Million Kgs)	0.026	0.028	0.430	0.990
Imports from Other Countries	0.035	0.034	0.027	0.055
Total Imports (Million Kgs)	0.061	0.062	0.457	1.045

	April 02 to March 03	April 03 to March 04	April 04 to March 05	POI (April 05 to March 06)
Imports from Subject Countries (Index)	100	109	1673	3855

Imports from Other Countries (Index)	100	97	76	156
Total Imports (Index)	100	102	747	1709

From the above table, it is noted that the volume of imports of subject goods has increased more than 38 times during the POI from the base year. During the same period, however, the imports from other countries increased only by 56%. The total import of subject goods increased by more than 17 times from the base year. It is also noted that imports from other countries are much less (approx 5% of the total imports as compared to total imports from all countries) during the POI though it used to be significant during earlier years.

Market share of Imports from subject country in the total imports and demand

ii) It is noted that the total demand of the subject goods has increased by 35% during the POI from the base year. With regard to the share of imports from the subject countries in the total imports, it is noted that the same has increased from 42% in the base year to 94% during the POI. It is also noted that the share of the imports from the subject countries in total demand has increased from 0.36% during the base year to 10.39% during the POI. Thus, it is considered that imports of subject goods from subject countries have increased significantly during the injury period.

	April 02 to March 03	April 03 to March 04	April 04 to March 05	POI (April 05 to March 06)
Total Demand				
Total Demand (Million Kgs.)	7.06	7.78	8.83	9.53
Trend	100	110	125	135

Share of Imports

	April 02 to March 03	April 03 to March 04	April 04 to March 05	POI (April 05 to March 06)
Imports from Subject				

Countries (Million Kgs.)				
Bulgaria	0.004	0.007	0.083	0.352
China P.R.		0.000057	0.000155	0.356
Malaysia				0.038
Singapore			0.130	0.121
South Korea	0.022	0.021	0.216	0.123
Total Subject Countries	0.026	0.028	0.430	0.990
Imports from Other Countries	0.035	0.034	0.027	0.055
Total Imports (Million Kgs.)	0.061	0.062	0.457	1.045
Total Domestic Sales	6.99	7.72	8.37	8.48
Total Demand (Million Kgs.)	7.06	7.78	8.83	9.53
% Share of Imports from Subject Countries:				
Total Imports	42.00%	44.98%	94.07%	94.72%
Total Demand	0.36%	0.36%	4.87%	10.39%
% Share of Imports from Other Countries in:				
Total Imports	58.00%	55.02%	5.93%	5.28%
Total Demand	0.50%	0.44%	0.31%	0.58%

Imports from subject country as % of domestic production:

iii) The Authority notes that dumped imports from subject countries as percentage of domestic production of the domestic producers have increased from a level of 0.37% in the year 2002-03 to 11.85% during the period of investigation. From the examination of the table below, it is noted that imports from subject countries started increasing only from 2003-04 onwards and the increased is considered significant.

	April 02 to March 03	April 03 to March 04	April 04 to March 05	POI (April 05 to March 06)
Imports from Subject Countries (Million Kgs.)				

Bulgaria	0.004	0.007	0.083	0.352
China P.R.		0.000057	0.000155	0.356
Malaysia				0.038
Singapore			0.130	0.121
South Korea	0.022	0.021	0.216	0.123
Total Subject Countries	0.026	0.028	0.43	0.99
Imports from Other Countries	0.035	0.034	0.027	0.055
Total Imports (Million Kgs.)	0.061	0.062	0.457	1.045
Total Domestic Sales	6.99	7.72	8.37	8.48
Total Demand (Million Kgs.)	7.06	7.78	8.83	9.53
Total Domestic Production (Million Kgs.)	6.94	8.65	8.52	8.36
% Share of Imports from Subject Countries:				
Total Domestic Production	0.37%	0.32%	5.04%	11.85%
% Share of Imports from Other Countries in:				
Total Domestic Production	0.51%	0.40%	0.32%	0.66%

Effect of Dumped Imports on prices in the domestic market for like products:

Price Undercutting

iv) With regard to the effect of the dumped imports on domestic prices, it has been examined whether there has been a significant price undercutting by the dumped imports as compared with the price of the like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. A comparison for product concerned was made between the landed value of exported product and the average

selling price of the domestic industry for domestic market net of all rebates and taxes for sales made to unrelated customers, at the same level of trade. The prices of the domestic industry were determined at the ex factory level. This comparison showed that during the period of investigation, the subject goods originating in subject country was sold in the Indian market at prices which undercut the domestic industry's prices when expressed as a percentage of the domestic selling prices of the domestic industry as is evident from the table below.

In order to assess the effect of imports on the domestic market an analysis of import prices over the injury period was made. It was noted that the exporters from subject countries have decreased their prices and the landed value has declined by 28% during the POI. The price undercutting on account of dumped imports of subject goods from subject countries have been determined as mentioned below. Thus, the price undercutting on account of dumped imports from subject countries remains significant during the POI. In view of the above, it is considered that the domestic industry has suffered adversely on account of significant price undercutting from subject countries during the POI.

	POI (April 05 to March 06)
Price Undercutting	
Selling Price Rs. / KG- Domestic Industry as a Whole	****
Landed Value Rs. / Kg.	
Bulgaria	****
China P.R.	180.72
Malaysia	196.68
Singapore	216.25
South Korea	173.51
Subject Countries	205
Price Undercutting Rs./KG	
Bulgaria	****
China P.R.	****
Malaysia	****
Singapore	****
South Korea	****
Subject Countries	****
Price Undercutting (%)	
Bulgaria	3-6%
China P.R.	25-35%

Malaysia	15-25%
Singapore	10-15%
South Korea	25-35%
Subject Countries	15-24%

### Price depression and Suppression

v) There has been no decline in the selling price of the domestic industry during the injury period. The selling price of the domestic industry has decreased by \*\*\*\*% during the injury period. However, the cost of production of subject goods of domestic industry has declined by \*\*\*\*% during the same period. It is also noted that the landed price of subject goods have declined by 28% during the same period. In view of the above, it is noted that imports of the subject goods from subject countries have suppressed the price of domestic industry.

	April 02 to March 03	April 03 to March 04	April 04 to March 05	POI (April 05 to March 06)
Cost of Production Rs. / KG-Domestic Industry as a Whole	****	****	****	****
Indexed	100	99.342	93.684	97.307
Selling Price Rs. / KG- Domestic Industry as a Whole	****	****	****	****
Indexed	100	99.886	93.802	97.011
CIF Prices ( Subject countries )	206	180	169	169
Landed Value Rs. / Kg.				
Bulgaria	325.36	326.06	231.76	****
China P.R.		26.09	137.37	180.72
Malaysia				196.68
Singapore			213.84	216.25
South Korea	276.39	204.06	190.87	173.51
Subject Countries	284.08	232.9	205.72	205
Indexed	100	82	72	72

Price underselling

vi) The Authority has also examined the claim of the petitioner that the domestic industry is suffering on account of the price underselling from the sale of subject goods. The Authority notes that price underselling is an important indicator to make an assessment of the injury. The Authority has worked out the Non-injurious price for the product under consideration and compared the same with the landed value to arrive at the extent of price underselling. The analysis shows a significant level of incidence of price underselling as illustrated in below mentioned table.

Price Underselling	POI (April 05 to March 06)
Non Injurious Price Rs./KG	****
Landed value Rs./KG.	
Bulgaria	****
China P.R.	180.72
Malaysia	196.68
Singapore	216.25
South Korea	173.51
Subject Countries	205
Price Underselling Rs./KG.	
Bulgaria	****
China P.R.	****
Malaysia	****
Singapore	****
South Korea	****
Subject Countries	****
Price Underselling (%)	

Bulgaria	4-8%
China P.R.	25-35%
Malaysia	20-28%
Singapore	10-20%
South Korea	25-35%
Subject Countries	15-25%

On the basis of the above, it is considered that the domestic industry has been adversely affected by the price underselling of the subject goods.

Situation of the Domestic Industry

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

Sales and Market share of domestic producers:

viii) It is noted that sales of the domestic industry have increased in absolute terms.

Sales (MT)	April 02 to March 03	April 03 to March 04	April 04 to March 05	POI (April 05 to March 06)
Domestic Industry	6.99	7.72	8.37	8.48
Other Domestic Producers	-	-	-	-
Domestic Industry as a Whole	6.99	7.72	8.37	8.48

Market Share of Domestic Industry				
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	April 02 to March 03	April 03 to March 04	April 04 to March 05	POI (April 05 to March 06)
Sales (MT):				
Domestic Industry	6.99	7.72	8.37	8.48
Other Domestic Producers				
Domestic Industry as a Whole	6.99	7.72	8.37	8.48
Total Demand (MT)	7.06	7.78	8.83	9.53
Market Share of:				
Domestic Industry (%)	99.13	99.20	94.82	89.03
Other Domestic Producers (%)				
Domestic Industry as a Whole (%)	99.13	99.20	94.82	89.03

The Authority finds that the share of the domestic industry as a whole have decreased from 99% during 02-03 to 89% during the POI. It is also noted that over the same period the demand has grown by 35%. In view of the above, it is considered that the domestic industry has not been able to grow at the same pace as demand and loss of the market share due to dumped imports from subject countries is considered significant.

Production & Capacity Utilization:

ix)

Production (Million KG)				
	April 02 to March 03	April 03 to March 04	April 04 to March 05	POI (April 05 to March 06)
Domestic Industry	7.56	9.45	10.26	10.17
Other Domestic Producers				
Domestic Industry as a Whole	7.56	9.45	10.26	10.17
Capacity (Million KG)				
	April 02 to March 03	April 03 to March 04	April 04 to March 05	POI (April 05 to March 06)

Domestic Industry	10.78	10.78	12.59	12.59
Other Domestic Producers				
Domestic Industry as a Whole	10.78	10.78	12.59	12.59

Capacity Utilisation%				
	April 02 to March 03	April 03 to March 04	April 04 to March 05	POI (April 05 to March 06)
Domestic Industry	70.12%	87.64%	81.45%	80.74%
Other Domestic Producers				
Domestic Industry as a Whole	70.12%	87.64%	81.45%	80.74%

x) From the above table, it is noted that the production of subject goods of domestic industry has significantly increased during the POI as compared to the base year. With regard to capacity utilization, it is noted that the same increased by 10% during the POI as compared to the base year. However, it is also noted that the capacity utilization has declined from 2003-04 onwards and during the POI, capacity utilization has declined by 9% during the POI as compared to 2003-04. Incidentally, it is recalled that the dumped imports started increasing from 2003-04 onwards in significant numbers.

#### Inventories:

xi) The Authority notes that the level of inventories of the domestic industry has increased significantly during the period of investigation as compared to the base year. It is also noted that inventories as a percentage of sales increased significantly during the injury period.

Inventories	April 02 to March 03	April 03 to March 04	April 04 to March 05	POI (April 05 to March 06)
Sales (Million Kgs)-Domestic Industry	6.99	7.72	8.37	8.48
Inventories-Domestic Industry (million Kg)	0.164	0.403	0.586	0.386
Inventories as	2.35%	5.22%	7.00%	4.56%

percentage of Sales				
Indexed	100	222	298	194

Factors affecting Domestic Prices:

xii) The Authority notes that the level of price undercutting from each of the subject countries is significant and the price undercutting on account of dumped imports from subject countries continue to affect the domestic selling prices. However, price underselling on account of dumped imports from each of the subject countries and cumulatively also is significant as the landed value of imports from each of subject countries is significantly lower than the non-injurious price of the domestic industry. This has exerted a suppressing on the domestic industry's prices resulting into price underselling. Though the domestic selling prices of subject goods have declined by 3% during the POI as compared to base year, its cost of production during the same period has declined by only 2.7%. The Authority also notes that apart from the applicants there are no other domestic producers of the subject goods in the domestic market in India therefore there are no other factors in the domestic market which could have affected the domestic industry prices.

Magnitude of Margin of Dumping:

xiii) The Authority finds that the magnitude of the margin of dumping for subject goods from the subject countries is significant.

Employment, Wages and Productivity :

xiv) The Authority notes that the domestic industry has added additional capacity and employed a number of persons. Accordingly, number of employees and wages paid to them has gone up during the injury investigation period. The Authority finds that the productivity per employee during the period of investigation has increased as compared to base year 2002-03. It is therefore noted that the loss of productivity is not a cause of injury to the Domestic Industry.

Employees, Wages and Productivity

	April 02 to March 03	April 03 to March 04	April 04 to March 05	POI (April 05 to March 06)
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Employees (Nos.)- Domestic Industry	****	****	****	****
Index	100	105.71	107.10	107.38
Wages Rs lakhs of Domestic industry	****	****	****	****
Index	100	100.26	124.44	132.14
Production of Domestic Industry	6.94	8.65	8.52	8.36
Index	100	124.64	122.77	120.46

Return on Investment and Profitability :

xv). The Authority notes that the profitability of the domestic industry has declined significantly during the POI as compared to the base year. The decline has been steeper from 2003-04 onwards to the POI. The return on capital employed has followed a similar trend during the injury period. It is recalled that dumped imports from subject countries surged only from 2003-04 onwards. On the basis of these parameters, it is considered that the domestic industry has been adversely affected by the deterioration in the operating performance.

Return on Capital Employed				
	April 02 to March 03	April 03 to March 04	April 04 to March 05	POI (April 05 to March 06)
Profit/Loss before interest (In lacs)	****	****	****	****
Indexed	100	128	103	90
Capital Employed - Domestic	****	****	****	****
Indexed	100	107	106	105
ROCE %	****	****	****	****
Index	100	119.39	96.68	85.07

Actual and potential negative effect on cash flows:

xvi) The Authority finds that the cash profit / cash flow has also followed the same trend as that of the profitability and ROI as mentioned in the preceding paragraphs.

	April 02 to March 03	April 03 to March 04	April 04 to March 05	POI (April 05 to March 06)
Cash Profit - Domestic Per Kg.	****	****	****	****
Indexed	100	116	113	103

Growth:

xvii) The Authority notes that though the sales volume of the domestic industry has gone up during POI, yet growth in sales volume during POI is less than the previous year and growth in the total demand over the same period. It is noted that most of the growth parameters show negative trend from 2003-04 onwards. On the basis of the above, it is considered that the domestic industry has experienced negative growth with regards to number of parameters.

Growth				
	April 02 to March 03	April 03 to March 04	April 04 to March 05	POI (April 05 to March 06)
Demand		0.73	1.04	0.70
Production-Domestic Industry as a Whole		1.70	(0.12)	(0.17)
Market Share-Domestic Industry as a Whole		0.07	(4.38)	(5.79)
Sales Volume-Domestic Industry as a Whole		0.73	0.65	0.11
Profit- Domestic Industry as a whole		148.61	(66.66)	(69.48)
Cash profit /KG Domestic Industry as a whole		1.90	(0.39)	(1.21)
ROCE-Domestic Industry		2.22	(2.60)	(1.33)

Ability to Raise Capital Investments:

xviii). The Authority finds that in view of the fact that domestic industry is getting adversely affected with regard to its operating performance, the ability of the domestic industry to raise capital investment may be adversely affected in view of the negative profits of the domestic industry and declining returns during the period of investigation. Some interested parties have raised the issue that M/s Technova has expanded its capacity and massive investments have been planned by them and these investments run counter to their claim of having suffered material injury on account of dumped imports from subject countries. The issue has been examined and it is noted that M/s Technova had planned the investments in its new digital plate manufacturing line and not the Analog plate manufacturing. It has also been noted that these investments have been made prior to the commencement of the POI.

CAUSAL LINK AND OTHER FACTORS

Issues raised by interested parties

79. It has also been submitted the conventional plates are losing their market shares to CTP (digital plates). It has further been added that customers of the applicants have switched over to CTP and the CTP provide better efficiency in terms of economy, time, output and performance. It has further been added that injury to the domestic industry could be because of the change in the pattern of consumption.

80. It has been submitted by the various interested parties that injury to domestic industry, if any, is due to the rising price of aluminum and not because of dumped imports from subject countries. The domestic industry has, on the other hand, submitted that the injury to the domestic industry is primarily on account of dumped imports from subject countries. They have added that the dumped imports compete directly with the goods produced by domestic industry and they compete at the same level. It has also been added that the domestic industry practices healthy competition, with service/support, quality and consequent price being defining parameters. They have also added that there no trade restrictive practices or technology issues which can be attributed to the cause of injury to the domestic industry. They have also added that export performance of the domestic industry in no way has affected its financial and economic situation.

#### Effect of dumped imports

81. Between 2002-03 and the POI, the dumped imports from subject countries as percent of total import of subject goods have increased from 42% in the base year to 94% during the POI. The market share of dumped imports from the subject counties have also increased significantly in relation to the total demand of subject goods in India and also in relation to the domestic production of domestic industry. . However, while examining the price effect i.e. whether the dumped imports have significantly undercut the price of the subject good in India, the Authority found that the landed value of the subject goods from subject countries was lower than the selling price of the domestic industry indicating that the dumped imports from subject countries have undercut the selling price of the domestic industry significantly. It is found that the price undercutting and the pricing behaviour of landed value of imports has forced the domestic industry to keep the domestic prices at un remunerative level. The domestic industry could not increase the selling price to recover the full increase in cost of production due to dumped imports and had to suffer deterioration in operating performance as compared to earlier periods especially from 2003-04 when the surge in the dumped imports from subject countries began. Thus, on the basis of above, it is considered that dumped imports from subject countries have caused injury to the domestic industry.

## Effect of other factors

### Trade restrictive practice and competition between the foreign and domestic producers and Changes in the pattern of consumption and Technology:

82. Some of the interested parties raised certain concerns on the substitutability of the product under consideration with the digital plates and the injury to the DI. The interested parties have also stated that digital plates are cannibalizing the analogue plates and the digital plates would replace analogue plates to the extent of 50% by the year 2012.

83. The Authority has examined the technology differences involved under both the products. It is noted that that as regards the technology is concerned in the analogue plates system, first, an image is prepared on a computer; it is then transferred to a film through an image setting device; the film is then used to create an image on the PS Plates which is then mounted on a conventional press to produce printed documents, while in a digital plate making system, the images are set on the computer as a computer file and the image so set is directly transferred to the Digital Plates which are then mounted on conventional presses for print output.

84. With regards to the issue of commercial substitutability, it is noted from the examination of facts placed before the Authority, that costs (both capital as well as running costs ) associated with setting up a digital plates would be much higher than PS plates. From the examination of the submissions made by the interested parties, it is noted that PS plates are mostly used by SME segments along with some bigger printers. It has been claimed that the positive plates consumption as opposed to other plates whether negative or digital is designed to suit the output quality, speed and cost requirements of the users and the imaging technology available to them. Further, these subject goods cater to different segments and users not only in India but also in subject countries. It is also noted that the digital plates (CTP Plates) have recently been introduced in the market which is having minor share of the total plate's consumption while considering the total plate's consumption in this country. According to one projection ( a sample survey with top CTP users around the country titled " All India CTP speak" ) PS Plates (Analogue) plates would continue to be relevant in the years to come for a large number of users as it is much cheaper to set up a printing establishment using PS Plates. This working on the survey is claimed to have been based on the study conducted by editors of "Indian printers and publishers" a predominant trade magazine. Further, the fact that there are a large number of users who have participated in this investigation and have submitted substantial documents/information during the

investigation process itself proves the continued as well as future importance of these subject goods in the domestic market. It is also noted that the overall demand of the subject goods has increased during the injury period and not declined. On the basis of the above, it is noted that competition between the foreign and domestic producers and Changes in the pattern of consumption have not been responsible for causing injury to the domestic industry.

Trade Restrictive Practice, Contraction of demand and Changes in the pattern of consumption:

85. It is noted that there is no contraction in the demand during the period under consideration. On the contrary, the overall demand has increased during the POI. The Authority did not find any trade restrictive practices followed by the Indian producers and other competing industries. Moreover, it is also noted that the domestic industry has un-utilized capacity to cater to the local demand if the competition in the market takes place at a fair price.

Export performance:

86. The Domestic Industry has exported the subject goods during the period of investigation as well as during previous years. The Authority notes that the export performance of the domestic industry has shown improvement. However, performance of the domestic industry has been determined after segregating the domestic and exports sales for the purpose of the injury examination.

Productivity:

87. The productivity of the domestic industry has improved during the period of investigation as compared to the base year 2002-03.

## Conclusion on Injury and Causal link

88. On the issue of injury and causal link, all the fifteen mandated parameters affecting the domestic industry have been examined. The volume and the price effect from subject countries have been cumulated as per the rules provision. From the volume and the price effect, it is gathered that the volume of the dumped imports have increased substantially during the injury period and have increased substantially during the POI. The volume of the dumped imports from subject countries is considered significant in relation to the demand as well as in relation to the production of the subject goods in the country. In relation to prices, it is noted that there has been a decline in the prices at the CIF level as well as the landed value of subject goods from subject countries. Following decline in the landed value, it is noted that the dumped imports prices have undercut significantly the prices of the domestic industry in the Indian market. It is also noted that the dumped imports from subject countries have suppressed the domestic industry prices and there is a significant price underselling by domestic industry as the landed prices are significantly below the non injurious price determined for the domestic industry. With regard to the impact of volume and the price effects on the domestic industry, all the fifteen parameters have been examined. Factors other than dumped imports known to cause injury to the domestic industry have also been examined in the causal link. It is noted that the dumped imports started surging only from 2003-04 onwards. However, the base year for this injury period is 2002-03. It is noted from the examination that though production and sales have increased during the injury period in the absolute basis, the increase is considered insignificant from 2003-04 onwards which incidentally was the year from which dumped imports from subject countries started surging. In fact, the capacity utilization has declined significantly since 2003-04 to the POI. With regard to the change in the operating performance, it is seen that there has not been much change (marginal decline in some parameters) in financial parameters from base year to the POI, however, the changes appear significant from 2003-04 to the POI. The operating performance of domestic industry show a significant negative growth from 2003-04 to the POI in terms of profitability, ROI, cash profit.

89. Given the above analysis which has properly distinguished and separated the effects of all known factors on the situation of the domestic industry from the injurious effects of the dumped imports, it is concluded that these other factors as such did not reverse the fact that the material injury found may be attributed to the dumped imports.

90. It is, therefore, concluded that the dumped imports originating in the subject countries have caused material injury to the domestic industry within the meaning of Rule 11 of Anti Dumping rules.

## H. MAGNITUDE OF INJURY MARGIN

### Determination of Non-injurious price

91. The Authority determined the non-injurious price for the domestic industry as a whole.

92. The non-injurious price determined by the Authority is the weighted average of all types of the subject goods produced by the domestic industry and the same has been compared with the weighted average landed value of the exports from the subject countries for determination of injury margin. The weighted average landed price of the exports from the subject countries and the injury margins have been worked out as follows:

### Injury Margin Calculations

Names of producers and exporters/Countries	IM (US\$/Kg)	IM%
M/s Kodak Polychrome, Bulgaria and M/s KPG, Singapore	****	5-10%
Others, Bulgaria	****	40-50%
All Exporters, Malaysia	****	20-30%
All Exporters Singapore	****	10-20%
All Exporters, China PR	****	25-35%
All Exporters, Korea RP	****	25-35%

### I. Indian Industry interest.

93. The purpose of anti dumping duties in general is to eliminate dumping which is causing injury to the domestic industry and to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country.

94. The Authority recognizes that the imposition of anti dumping duties might affect the price levels of the products manufactured using subject goods and consequently might have some influence on relative competitiveness of these products. However, fair competition on the Indian market will not be reduced by the anti dumping measures. On the contrary, imposition of anti dumping measures would remove the unfair advantages gained by dumping practices, would prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of subject goods. It is noted that the imposition of anti dumping measures would not restrict imports from subject countries in any way, and therefore, would not affect the availability of the product to the consumers. The consumers could still maintain two or even more sources of supply.

#### J. CONCLUSIONS:

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

- A. The subject goods have been exported to India from subject countries below its normal values.
- B. The Domestic Industry has suffered material injury;
- C. The injury has been caused cumulatively by the dumped imports from subject countries.

96. 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 margin of dumping and margin of injury, so as to remove the injury to the domestic industry. For the purpose of determining injury margin, the landed value of imports

has been compared with the non-injurious price of the domestic industry determined for the period of investigation. The margin of dumping and injury determined by the Authority is indicated in the paragraphs above.

97. Accordingly, the Authority recommends that the definitive anti dumping duties be imposed from the date of notification to be issued in this regard by the Central Government on all imports of subject goods under chapters 84, 76 and 37 originating in or exported from subject countries. The Anti-Dumping duty shall be the difference between the amount mentioned in column 9 of the following table and the landed value of imports per Kg to be imposed from the date of Notification to be issued in this regard by the Central Government on all the imports of subject goods falling under Chapter 84, 76 and 37 of the Customs Tariff act, originating in or exported from the subject countries.

Sl. No	Heading	Description of goods	Specification	Country of origin	Country of Export	Producer	Exporter	Amount US\$/MT	Unit of Measurement	Currency
-1	-2	-3	-4	-5	-6	-7	-8	-9	-10	-11
1	84, 37 and 76	Pre-sensitized positive offset aluminum plates *	Any	China PR	China PR	Any	Any	5.682954	Kg	US\$
2	84, 37 and 76	-do-	Any	China PR	Any other than China PR	Any	Any	5.682954	Kg	US\$
3	84, 37 and 76	-do-	-do-	Any except subject countries	China PR	Any	Any	5.682954	Kg	US\$
4	84, 37 and 76	-do-	Any	Malaysia	Malaysia	Any	Any	5.682954	Kg	US\$
5	84, 37 and 76	-do-	Any	Malaysia	Any other than Malaysia	Any	Any	5.682954	Kg	US\$
6	84, 37 and 76	-do-	-do-	Any except subject countries	Malaysia	Any	Any	5.682954	Kg	US\$
7	84, 37 and 76	-do-	Any	Korea RP	Korea RP	Any	Any	5.682954	Kg	US\$
8	84, 37 and 76	-do-	Any	Korea RP	Any other than Korea RP	Any	Any	5.682954	Kg	US\$

9	84, 37 and 76	-do-	-do-	Any except subject countries	Korea RP	Any	Any	5.682954	Kg	US\$
10	84, 37 and 76	-do-	Any	Bulgaria	Bulgaria	Any	Any	5.682954	Kg	US\$
11	84, 37 and 76	-do-	Any	Bulgaria	Any other than Bulgaria and singapore	Any	Any	5.682954	Kg	US\$
12	84, 37 and 76	-do-	Any	Bulgaria	Singapore	M/s KP Bulgaria	M/s KPG Singapore	5.682954	Kg	US\$
13	84, 37 and 76	-do-	Any	Bulgaria	Singapore	any	any	5.682954	Kg	US\$
14	84, 37 and 76	-do-	Any	Any except subject countries	Bulgaria	Any	Any	5.682954	Kg	US\$
15	84, 37 and 76	-do-	Any	Singapore	Singapore	Any	Any	5.682954	Kg	US\$
16	84, 37 and 76	-do-	Any	Singapore	Any other than Singapore	Any	Any	5.682954	Kg	US\$
17	84, 37 and 76	-do-	-do-	Any except subject countries	Singapore	Any	Any	5.682954	Kg	US\$
*thickness ranging from 0.15 mm to 0.40mm with a variation of 0.03mm on either side										

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

99. An appeal against this order shall lie before the Customs Excise and Service Tax Appellate tribunal, in accordance with the Act.

100. The Authority may review the need for continuation, modification or termination of the definitive measures, as recommended herein, from time to time, as per the relevant provisions of the Act, and public notices issued in this respect from time to time. No request for such a review shall be entertained by the Authority unless the same is filed by an interested party within the time limit stipulated for this purpose.

**(R. Gopalan)**  
Designated Authority