

**Ministry of Commerce & Industry**  
**Department of Commerce**  
**Directorate General of Anti-Dumping & Allied Duties**  
**Udyog Bhawan**

**NOTIFICATION**

**Final Findings**

New Delhi, the 27th January, 2005

**Subject :** Anti-dumping investigation concerning import of Thermal Sensitive Paper from Indonesia, Malaysia and UAE – Final Findings.

**No. 14/2/2003-DGAD** – Having regard to the Customs Tariff Act, 1975 as amended in 1995 and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, thereof.

**A. PROCEDURE:**

**2. The procedure described below has been followed with regard to the investigations:-**

- i. The Designated Authority (hereinafter referred to as the Authority), under the above Rules, received a written application from M/s Shree Krishna Paper Mills & Industries Limited, New Delhi alleging dumping of Thermal Sensitive Paper (hereinafter referred to as subject goods) originating in and exported from Indonesia, Malaysia and UAE (hereinafter referred to as subject countries);
- ii. Preliminary scrutiny of the application revealed certain deficiencies, which were rectified by the applicant;
- iii. The Authority notified the Embassies/High Commission of the subject countries in India about the receipt of dumping application made by the petitioner before proceeding to initiate the investigation in accordance with sub-rule (5) of Rule 5 supra;
- iv. The Authority issued a Public Notice dated 29th July, 2003 published in the Gazette of India, Extraordinary, initiating anti dumping proceedings concerning imports of Thermal Sensitive Paper covered under heading/subheading 4809.10, 4811 and 4816 of Schedule I of the Customs Tariff Act;

- v. The Authority forwarded copy of the said public notice to the known exporters, importers and to the complainants and gave them an opportunity to make their views known in writing;
- vi. According to sub-rule (3) of Rule 6 supra, the Authority provided a copy of the application to the following known exporters and Embassies of subject countries in India;
  - 1. **Asia Pulp & Paper Co. Ltd.,**  
Pt. Pabrik Kertas Tjiwi Kimia Tbk And  
Pt Indah Kiat Pulp And Paper Corp. Tbk  
C/O. Pt. Pindo Deli Pulp And Paper Mills  
Jl. Prof. Dr. Ir. H. Soetami No.88,  
Teluk Jambe Karawang, Jawa Barat,  
Indonesia
  - 2. **Pt. Pindo Deli Pulp And Paper Mills**  
Jl. Prof. Dr. Ir. H. Soetami No.88,  
Teluk Jambe Karawang, Jawa Barat,  
Indonesia
  - 3. **Andrew's & Mitchell Agencies**  
Block 774, Pasir Ris St. 71.  
03-392, Singapore 510774
  - 4. **Metropolic Paper Industries**  
Po Box – 27584  
Dubai,  
United Arab Emirates
  - 5. **Universal Enterprises (Overseas) Ltd.**  
P.O. Box No : 5886,  
Sharjah,  
United Arab Emirates
- vii. Request was made to the Central Board of Excise and Customs (CBEC) and Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of imports of subject goods;
- viii. The Embassies/High Commission of the subject countries were informed about the initiation of the investigation in accordance with Rule 6(2) with a request to advise the exporters/producers from their country to respond to the questionnaire within the prescribed time. A copy of the letter, petition and questionnaire sent to the exporters was also sent to them;
- ix. A questionnaire was sent to the following known importers of subject goods in India calling for necessary information in accordance with Rule 6(4);

- Syndicate Printers  
B-4, Sector III  
NOIDA – 201 301.
- Gopson Papers Ltd.  
A-28, Sector – 9  
NOIDA (UP).
- Lucky Forms (P) Ltd.  
16, Samrat Compound  
L.B.S. Marg  
Vikhroli (W)  
Mumbai – 400 079.
- Rational Business Corporation  
Century House  
Near Satyawati College,  
Ashok Vihar,  
Delhi – 110 052.
- Vijex Office Equipment (P) Ltd.  
Kamala Arcade,  
Anna Salai  
Mount Road,  
Chennai – 600 006.
- Excel Mark Trading Co.  
22 (Old No.43)  
Subbarayani Street,  
Nammal Worpet  
Chennai.
- Sanjay International  
No.1, 80 Ft. Road,  
Satya Garden, Saligramam  
Chennai – 600 093.
- Kalra Papers (P) Ltd.  
34, Raja Garden,  
New Delhi – 110 015.
- Sumat Pershad & Sons  
355, Chawri Bazar,  
Delhi – 110 006.
- Delhi Trading House  
1/11423, Main Road,  
Subhash Park,  
Naveen Shahdara  
Delhi – 110 032

- Kosmo Paper Stores  
C-4, Dhanraj Industrial Estate,  
Lower Parel  
Mumbai – 400 013.
- Hero Paper Co. (P) Ltd.  
6/A, Shah Nahar Industrial Estate,  
Lower Parel  
Mumbai –400 013.
- Kuber Enterprises  
535, Katra Ishwar Bhawan,  
Khari Baoli,  
Delhi – 110 006.

- x. The Authority provided an opportunity to the interested parties to present their views orally in a public hearing held on 21st May, 2004. All parties presenting views were requested to file written submissions of their views expressed. The parties were advised to collect copies of the views expressed by the opposing parties and offer rebuttals, if any;
- xi. The Authority made available to all interested parties the public file containing non-confidential version of evidence submitted by various interested parties for inspection, upon request as per Rule 6(7);
- xii. In accordance with Rule 16 of the Rules supra, the essential facts/basis considered for these findings were disclosed to known interested parties on 23rd December, 2004 vide a disclosure statement and comments received on the same have also been duly considered in these findings;
- xiii. Arguments made by the interested parties after initiation of the investigation, subsequent to the public hearing have been appropriately dealt in the disclosure statement. Arguments dealt with in the Disclosure Statement as well as those made in response to the disclosures have been dealt with in these findings;
- xiv. Cost investigations including spot verification (as deemed necessary) of the domestic industry were also conducted to work out optimum cost of production and cost to make and sell the subject goods in India on the basis of Generally Accepted Accounting Principles (GAAP) and the information furnished by the domestic industry;
- xv. The Authority conducted on the spot verification of information furnished by the exporter M/s PT. Pindo Deli Pulp And Paper Mills, Indonesia;
- xvi. \*\*\* in this notification represents information furnished by the interested parties on confidential basis and so considered by the Authority under the Rules;

- xvii. The investigation covered the period from 1st April, 2002 to 31st March, 2003 (POI). The injury analysis covered the three preceding years 1999-2000, 2000-2001, 2001-2002 and the POI.
- xviii. Copies of the Initiation Notice were also sent to FICCI, CII, ASSOCHAM etc. for wider circulation.

## **B. VIEWS OF PETITIONERS, EXPORTERS, IMPORTERS AND OTHER INTERESTED PARTIES AND EXAMINATION BY AUTHORITY.**

3. The views expressed by various interested parties have been discussed in the disclosure statement and also in these findings. The views which have not been discussed earlier in the disclosure statement and those now raised in response to the disclosure statement are discussed in the relevant paragraphs herein below to the extent these are relevant as per rules and have a bearing upon the case. The arguments raised by the interested parties have been examined, considered and, wherever appropriate, dealt in the relevant paragraphs herein below.

4. After the initiation of the investigation, response had been received from the following:

**Exporter: -**

M/s PT. Pindo Deli Pulp And Paper Mills, Indonesia

**Importer:**

M/s Sumat Pershad & Sons, Delhi

### **5. Product under Consideration :**

The product under consideration is Thermal Sensitive Paper (TSP). Thermal Sensitive Paper is a paper coated with a special mix of chemicals for providing thermal sensitive properties to the base paper. Impression on the paper is created by virtue of controlled thermal heat exposed on the paper. Thermal Sensitive Paper is primarily used for recording messages for electronic equipments where the machine is used to record messages, reports through sensitivity of heat rays. Thermal Sensitive Paper is primarily used in fax machines. It is also used in ECG Machines and other medical equipments, Seismographic machines, Airlines baggage tagging, tickets, boarding cards etc. Petitioners had claimed that TSP is classified under chapter 48 of the Customs Tariff Act. The product does not have a dedicated Customs Classification. However, it generally gets covered under sub-heading 4809.10 i.e. 'Carbon or similar copying paper'. Petitioners had also claimed that TSP is also cleared under different

sub-headings of heading 4811 and 4816 of the Customs Tariff Classification. These Classifications are indicative only and are in no way binding on the scope of the present investigation. It had been argued by the exporter M/s Pindo Deli that the petitioner had indicated a market for the product under consideration as 2000 MT during 2002-03 whereas according to them the market was approx. 9000-10000 MT and that much of the requirement of the local market is for product, which the petitioner cannot produce and the Designated Authority may closely examine the definition of goods under consideration. The authority has considered the arguments and has found that the demand of TSP is to be based on the imports made of TSP and domestic sales. Based on the available import data and the domestic sales of the producers in India, the authority has assessed the demand as around 1838 Mt during the POI. The Authority holds that the scope of the product is correctly described as Thermal Sensitive Paper.

## **6. Like Article :**

The petitioner had claimed that there is no difference between the product manufactured by them and the imported product. They had also stated that the subject product manufactured in India by the petitioner is commercially and technically substitutable to the imported product. There are no arguments to oppose this claim. The Authority found that the domestic industry produces Thermal Sensitive Paper. Based on the information received from the exporter and the importer, the Authority is of the view that the product being manufactured by the domestic industry is a commercial substitute of the product under consideration and is comparable in terms of characteristics such as physical and chemical characteristics, functions and uses, distribution and marketing and tariff classification. The Authority, therefore, holds the product manufactured by the domestic industry as like article to the subject goods being imported from subject countries.

## **7. Domestic Industry :**

M/s Shree Krishna Paper Mills & Industries Limited, New Delhi had filed the present application for anti dumping investigation. The petitioner had claimed at the time of making the application that it is the only producer of the subject goods in India and therefore, satisfied the criteria of standing to file the petition on behalf of the domestic industry in terms of Rule 5(3)(a) of the Rules supra. Subsequent to the holding of public hearing on 21.5.2004, issue was raised by the exporter from Indonesia M/s Pindo Deli and importer, M/s Sumat Prasad & Sons that M/s Shree Krishna Paper Mills & Industry is not the only producer and that there is another domestic producer who produces Thermal Sensitive Paper. M/s PT. Pindo Deli Pulp and Paper Mills (SINAR MAS Group) Indonesia, argued that domestic producer M/s Shree Krishna Paper Mills & Industries Ltd. had made incorrect statement at the time of filing the

application on 1.1.2003 that it was the sole Indian producer of Thermal Sensitive Paper. As per the information made available subsequent to the public hearing and as per petitioner's statement M/s Alpha Carbonless Paper is the other producer producing Thermal Sensitive Paper during the year 2002-03. The exporter has contended that the initiation of investigation by Designated Authority on this incorrect information is in violation of Article 5.4 of the Agreement. It has been further alleged by the exporter that requirement of Article 5.2 was not met as petitioner failed to provide evidence substantiating its assertion that injury as interpreted by the agreement was caused to the domestic industry producing like product. Further, it has been alleged that the Designated Authority failed to meet the obligation as per Article 5.3 to examine the accuracy and adequacy of evidence provided in the application to determine whether there is sufficient evidence to justify initiation of investigation. The exporter has also argued that the domestic industry should also include M/s Alpha Carbonless Paper.

The exporter has also contended that initiation of this investigation being violative of the Anti Dumping Agreement, it must be promptly terminated. Further it has been stated that the said violations are not vindicated by any post-facto findings.

The Authority has examined these arguments and found that this is the third anti dumping investigation concerning imports of Thermal Sensitive Paper. M/s Shree Krishna Paper Mills & Industries Ltd. had represented the domestic industry as the sole producer in the earlier investigations. The domestic industry had made a statement in the present application that they are the sole producer of Thermal Sensitive Paper in the country. The application in this investigation was received on 1 January, 2003 whereas M/s Alpha Carbonless Paper, the other producer had reported production of 345.05 MT of Thermal Sensitive Paper during the year 2002-03. Therefore, the allegation of the exporter that the petitioner M/s Shree Krishna made a false statement at the time of filing of application on 1.1.2003 is not correct because the financial year 2002-03 closes on 31 March, 2003. The petitioner has also produced documents subsequent to the public hearing that M/s Alpha Carbonless Paper, Mumbai has been procuring jumbo rolls of Thermal Sensitive Paper from several sources (including the petitioner) and supplied finished rolls in the market. The Annual Report of the company (M/s Alpha) for the year 2002-03 had been finalized on 5th June, 2003. This report contained the information regarding their production of Thermal Sensitive Paper during the year 2002-03. The Authority notes that the obligation of the petitioner under Article 5.2 regarding submission of information is as regards information as is reasonably available to the applicant. Article 5.2(i) also states that where a written application is made on behalf of the domestic industry, the application shall identify the industry on behalf of which the application is made by a list of all known domestic producers of the like product and to the extent possible, a

description of the volume and value of domestic production of the like product accounted for by such producers. M/s Alpha Carbonless Paper is a private limited company and their annual report is generally not available in public domain. In these circumstances, the petitioner could not reasonably be expected to have the information about the production of M/s Alpha Carbonless Paper during 2002-03 at the time of filing of application on 1.1.2003. The Authority had examined the accuracy and adequacy of the evidence provided in the application as was reasonably available at that time. In the views of the Authority, there was no violation of Article 5.2 and 5.3 of the agreement. The Authority did not find the allegation of the exporter in this regard sustainable and did not consider the demand for termination of investigation as reasonable. M/s Alpha Carbonless was advised to inform their production figures and their willingness to participate in this investigation. The company informed that they are actually involved in production of Carbonless Paper. However, they had started production of Thermal Sensitive Paper as they were facing stiff competition from imports in Carbonless Paper. They confirmed about their production of Thermal Sensitive Paper during 2002-03 as 345.05 MT and Nil production during the years 2000-01 and 2001-02. They were, however, not willing to participate in this investigation, as their production was too insignificant. However, they have stated that they are not able to recover their cost and make profit from production and sale of Thermal Sensitive Paper. The Authority found that the petitioner M/s Shree Krishna had requisite standing to file the petition as per Rule 5 (3). They also constituted the domestic industry within the meaning of Rule 2 (b) as their production constitutes a major proportion of Thermal Sensitive Paper. The position of the domestic production in the year 2002-03 was as under :

M/s Shree Krishna Paper Mills	995 MT
M/s Alpha Carbonless Paper	345 MT
Total	1340 MT
Share of M/s Shree Krishna	74%

Considering the foregoing, the Authority is of the view that there is no violation of clause 5.4 of the Agreement in the initiation of this investigation. The Authority holds that M/s Shree Krishna Paper Mills & Industries Ltd. who accounts for a major proportion of the domestic production of the subject product represents the 'Domestic Industry' within the meaning of Rule 2(b) supra.

### **8. Inadequate non-confidential information:**

It has been argued by the domestic industry that the exporter has resorted to excessive use of confidentiality provision. No indexed information has been provided by the exporter in respect of various appendices forming part of the response. Under Rule 7,

the Authority has to be satisfied as to the confidentiality of the material. Even if the material is confidential, the party providing information on confidential basis has to furnish a non-confidential summary thereof. The Authority had taken note of the arguments of the domestic industry during the course of the investigation. The exporter had provided non-confidential version of the questionnaire response. They had further provided more information on non-confidential basis on 19th March, 2004, 15th July, 2004, 28th September, 2004, 8th November, 2004 and 4th January, 2005. The domestic industry inspected the public file from time to time and was allowed to take copies of the submissions made by other interested parties. The financial statements of the exporter (annual report) were made available to the domestic industry. The exporter provided summary of factory cost and manufacturing cost, adjustment on account of inland freight, packing cost, raw material details, reasons for non-submission of details of exports to other countries, etc. The information regarding actual exports to India, detailed cost of production is considered to be by nature confidential. The Authority found that the exporter had provided sufficient non-confidential summary of information/arguments made on confidential basis and these had been provided to the domestic industry from time to time to enable them to offer their comments. The Authority does not find the argument of the domestic industry sustainable on this ground in accordance with Rule 7.

## **C. EXAMINATION OF CLAIMS REGARDING NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN.**

### **9. Normal Value for Indonesia:**

- a. Copy of Initiation Notice was sent to the Embassies/High Commission of subject countries, the exporters, importers and domestic industry. In response to the initiation notification M/s PT Pindo Deli Pulp & Paper Mills, Indonesia (Pindo Deli) had furnished response to the exporter questionnaire. The Authority conducted on-the –spot verification of information furnished by Pindo Deli at their plant and office in Indonesia. The information furnished by Pindo Deli in respect of their exports, domestic sales, cost of production etc. was verified. A copy of the verification report was sent to M/s Pindo Deli. Comments received on the verification report and in response to the Disclosure Statement have been considered and dealt with in these findings.
- b. In response to the Disclosure Statement, the domestic industry has made following arguments:
  - i. The dumping margin determined for Indonesian exporter is grossly inadequate to provide adequate relief to the domestic industry.

- ii. The cost of production of the exporter has not been correctly determined by the Designated Authority. Cost of production of the exporter cannot be considered without including interest and depreciation cost. As the exporter has not provided profit and loss statement for the POI, cost of production could not have been determined based on the information furnished by the exporter.
  - iii. The exporter has its own raw material of base paper. It is not clear whether the transfer price of base paper represents true and representative fair market value. Transfer price should be based on arm's length.
  - iv. Exporter has been incurring huge financial losses. The precarious financial situation of the exporter is due to indiscriminate dumping practices.
  - v. The selling price of cut sheets of Thermal Sensitive Paper sold by exporter in home market should be compared with the exports to India after making adjustment of cutting cost. The exporter has provided information only in respect of selected types of paper and complete information on all types of thermal paper has not been provided.
  - vi. The exporter has not given information regarding sales of subject goods to other countries. The exporter did not quantify the difference in costs between the subject product exported to India and those sold in home market and third countries. This should be a sufficient ground to declare them as non-cooperative and Rule 6(8) should be applied.
  - vii. Financial expenses have not been considered as per records maintained by the company. The reference to currency crisis for computing financial expenses is without relevance.
  - viii. The determination of SGA and profit is not consistent with the rules. The amount for administrative, selling and general costs and for profits should be based on actual data pertaining to production and sales in the ordinary course of trade of the like product by the exporter. Only when such amounts cannot be determined on this basis, the amounts may be determined on the basis of alternatives given under Article 2.2.2. Authority should have considered profit in respect of exports to third countries.
- c. In response to the Disclosures, the exporter, M/s PT Pindo Deli has given arguments that Authority's treatment of depreciation cost in the normal value construction is not in accordance with Article 2.2.1.1. The Authority has imputed a notional amount of depreciation which is far in excess of the amount based on Pindo Deli's actual depreciation cost for the product category within which the subject merchandise falls, allocated in accordance with the method historically utilized.
  - d. The Authority has examined the arguments of the domestic industry and the exporter on the normal value determination. As regards the exporter's arguments regarding treatment of depreciation cost, the calculation for

depreciation cost by the Authority is based on the relative capacity of production of Thermal Sensitive Paper and Carbonless Paper. As per company's financial statement, the Thermal Sensitive Paper production and sales are reported under the overall product category of Carbonless Paper Division. There are no separate reports regarding the performance of Thermal Sensitive Paper production and sales as a product category. The allocation has been made specifically for this investigation relating to Thermal Sensitive Paper, which has a different rate of production. The allocation of depreciation cost to Thermal Sensitive Paper production by the Authority is on the basis of relative capacity of production of Thermal Sensitive Paper vis-à-vis Carbonless Paper produced in the same division. There is no evidence of historical allocation of depreciation cost for thermal paper in the company's financial statements to support the claim for allocation of depreciation costs. In the views of the Authority, the methodology adopted for calculation of depreciation for Thermal Sensitive Paper reflects the cost that can reasonably be associated with the production and sale of the product under consideration i.e. Thermal Sensitive Paper as is required under Article 2.2.1.1.

- e. As regards the arguments made by the domestic industry regarding the financial data submitted by the exporter, the Authority had conducted verification of cost of production data furnished by the exporter which was verified with reference to the basic records of the company and the financial statements for the POI provided by the company. As regards, determination of normal value on the basis of home market sales of the company of register rolls, as has been stated in the Disclosures, the company had domestic sales of \*\*\*MT of US\$ \*\*\* made by P.T. Cakrawala Mega Indah to an independent buyer. These sales are of Thermal Sensitive Paper in register rolls. As this was one single transaction of less than 5% of exports to India (\*\*\* MT), these were not considered sufficient for determination of normal value based on domestic market sales in accordance with footnote 2 of Article 2.2.
- f. As regards price of raw material of base paper, which is produced captively by the exporter, the Authority did not find any independent sales made by the company for base paper. Moreover, the facts of the case did not warrant to disregard the price of base paper taken by the company for calculation of cost of production.
- g. As regards determination of normal value based on exports to third countries, as per the exporter, there were no comparable sales of the product concerned to any market other than India. The thermal paper exported to India is off-spec product, which is of a quality not acceptable to other markets. This specification (quality) difference is a physical/technical characteristic which creates a significant price difference and causes the Thermal Sensitive Paper to India to be not interchangeable with the Thermal Sensitive Paper exported to

other markets. Further, the price difference between the off-spec product to India and the standard product to other markets is not cost related and it is not possible to quantify the price effect of this difference. The company had claimed that the goods concerned exported to India are 'B-grade' quality and 'of-specs' whereas those sold in the domestic market and exported to countries other than India are standard quality. Also that the goods sold in the domestic market is Thermal sensitive paper converted into register rolls and those sold to India are Thermal sensitive paper in reels.

- h. As per Article 2.2, where the low volume of sales of like product in the domestic market of the exporting country does not permit a proper comparison, the comparison has to be made with a comparable price of the like product when exported to an appropriate third country, provided that this price is representative or with the cost of production in the country of origin plus a reasonable amount for administrative, selling and general costs and for profits. The exporter had made a strong and consistent argument that their exports to other countries were not comparable with the exports made to India. The comparable price of the like product when exported to an appropriate third country has to be a representative price. The Authority does not agree with the argument of the domestic industry to treat the exporter as non-cooperative and to resort to facts available as per Rule 6(8). The exporter has co-operated in giving information relating to cost of production and had offered for its verification which was also conducted. In the given circumstances, the authority has considered it appropriate to determine the normal value on the basis of cost of production plus a reasonable amount for administrative, selling and general costs and profits as per Section 9A(1)(c)(ii)(b) of the Act.
- i. As regards treatment of financial expenses, as per Article 2.2.1.1 of the Anti Dumping Agreement, for the purpose of paragraph 2, costs shall normally be calculated on the basis of records kept by the exporter or producer under investigation, provided that such records are in accordance with the generally accepted accounting principles of the exporting country and reasonably reflect the costs associated with the production and sales of the product under consideration.
- j. As reported in its annual report 2002, from 2001 APP and its subsidiaries including the company PT Pindo Deli, declared a standstill with respect to the debt obligations of the APP Group. This standstill declaration essentially amounted to the publication by APP of the inability of APP Group members, including the company, to timely service their respective debt obligations. As per this report, on September 28, 2002, APP and the principal Indonesian operating companies within the APP group (the PIOC's) agreed on preliminary terms with certain material creditors with respect to the principal terms of a financial re-structuring. As reported in annual report 2003, the PIOC's signed

individual Master Restructuring Agreements (MRA) with the Indonesian Bank Restructuring Agency (IBRA) and creditors. This restructuring is dependent upon 90% of the creditors accepting the terms of the proposed restructuring. Subsequently, the exporter has provided a confirmation that close to 100% of Pindo Deli's creditors have agreed to join the MRA. The views of the exporter on the allocation of financial expenses based on the MRA have been considered. The authority has also considered the fact that after the currency crisis of 1997, several Indonesian companies had defaulted in loan repayments and these companies had gone for financial restructuring. The Authority held the view that as per the provisions of Article 2.2.1.1 as above, it would be reasonable to consider the financial expenses as per the MRA for the purpose of calculation of cost of production. The Authority does not agree with the views of the domestic industry to treat financial expenses on the basis of expenses charged in the books for the relevant period.

- k. As regards administrative, selling and general costs, these have been based on actual data pertaining to the production and sales of the like product by the exporter. As regards profits to be included in the constructed normal value, the domestic industry's argument is to consider the profits made on exports to third countries. Whereas the exporter has made argument that it may not be appropriate to determine such profit for constructing normal value for comparison with off-spec material exported to India, on the basis of actual profit realized by Pindo Deli in sales of Thermal Sensitive Paper to all markets during the POI. As per the exporter:
  - i. Constructed normal value is a proxy domestic price and consequently amounts for profit and SGA expenses must be amounts incurred and realized in domestic sales,
  - ii. To take into account profit in export sales could well result in profit in sales at dumping prices being taken into account, and
  - iii. The scheme of Article 2.2.2 makes it clear that amounts of SGA incurred and profit realized are to be those incurred and realized in domestic sales.

Further, the exporter has argued that it will be inappropriate to include profit realized in the only domestic sale of Thermal Paper of register rolls as such sale is of insufficient quantity for determination of normal value. The specifics of this case make it even more unreasonable to include in an amount of profit in a constructed normal value for the inferior quality (off-spec) and heavily discounted Thermal Sensitive Paper sales to India, profit realized in the higher priced sales of standard quality thermal paper sales to other export markets. Such profit amount is well in

excess of a reasonable profit amount realizable in sales of off-spec product in the domestic market and any other market.

- l. As per Article 2.2.2, for the purpose of paragraph 2, the amounts for administrative, selling and general costs and for profits shall be based on actual data pertaining to production and sales in the ordinary course of trade of the like product by the exporter or producer under investigation. When such amounts cannot be determined on this basis, the amounts may be determined on the basis of :
  - i. the actual amounts incurred and realized by the exporter or producer in question in respect of production and sales in the domestic market of the country of origin of the same general category of products ;
  - ii. the weighed average of the actual amount incurred and realized by other exporters or producers subject to investigation in respect of production and sales of the like product in the domestic market of the country or origin;
  - iii. any other reasonable method, provided that the amount for profit so established shall not exceed the profit normally realized by other exporters or producers on sales of products of the same general category in the domestic market of the country of origin.
- m. The Authority has considered these arguments and has also examined the data of the company as regards profits in respect of following:
  - i. On total sales of thermal paper- this includes small domestic sales of register rolls, exports to India and exports to third countries.
  - ii. On the basis of small domestic sales of register rolls.
  - iii. On the sales of carbonless paper (NCR) – same general category of products.
- n. After considering the data on profit level reasonably to be attributed for constructing the normal value, the authority held that it would be reasonable to add profits earned by the company in domestic sales of same general category of products i.e. carbonless paper. Accordingly, a profit margin of \*\*\* % was added to the cost of production and normal value was arrived at US\$ \*\*\* PMT.

## **10. Export Price for Indonesia:**

During the POI, the company made exports of Thermal Sensitive Paper of \*\*\* MT to India at a gross value of US\$ \*\*\*. The domestic industry has argued that no adjustment for commission paid by the exporter has been made. As per the

information, no discount was paid on these exports. On verification of exporter's information, there was no such indication that commission was paid to any Indian agent or company. The sales were made to different customers, generally paper traders in India and who were non-affiliated to the company. The invoices were verified with reference to the terms of payment, delivery terms, quantity and value. The company had given sales price structure for export sales in Appendix 3A which has been verified with reference to the records of the company. It was verified that the inland freight included shipping, clearance and handling charges also. The net export price at ex-factory level was determined as US\$ \*\*\* PMT.

## **11. Normal Value for Malaysia**

None of the exporters / producers from Malaysia had furnished questionnaire response giving information regarding cost of production, domestic sales price, adjustments etc. Without any information relating to normal value determination, the Authority considers the Malaysian producers/exporters as non-cooperative. The Authority finds that in the absence of co-operation from Malaysian exporters, it was justified in resorting to facts available in accordance with Article 6.8 read with Annex II. In the absence of information about domestic sales price of subject goods in Malaysia and evidence about exports to other countries from Malaysia, cost of production of Malaysian producers, the Authority considered it appropriate to determine normal value on the basis of a reasonable estimate of cost of production of subject goods in the country of origin plus a reasonable amount for administrative, selling and general costs and for profits. The applicant had furnished information in this regard in the application. The Authority has considered the cost of major raw material base paper and other chemicals during the POI on the basis of actual data of procurement/imports. International cost of raw material excluding any duties, as per records available in India, has been considered. Other costs viz. utilities, selling, general and administrative expenses etc. have been taken on the basis of verified information of the domestic industry. A reasonable profit margin has been added to arrive at the normal value which is determined as US\$\*\*\* PMT.

## **12. Export Price for Malaysia**

None of the exporters from Malaysia have given information regarding export price. The Authority has considered the information furnished by the petitioner regarding export prices which is based on the data obtained from M/s Informant, Mumbai and M/s Exim Infoline, Chennai. The authority has also considered the import data received from DGCI&S. Based on this information, the export price from Malaysia is US\$ 1229.07. Appropriate adjustments have been made from the average CIF price on account of sea freight, insurance, commission, inland freight and port expenses. The net export price arrived is US\$ \*\*\* PMT.\_

### **13. Normal Value for UAE**

None of the exporters / producers from UAE had furnished questionnaire response giving information regarding cost of production, domestic sales price, adjustments etc. Without any information relating to normal value determination, the Authority considered the UAE producers/exporters as non-cooperative. The Authority finds that in the absence of co-operation from UAE exporters, it was justified in resorting to facts available in accordance with Article 6.8 read with Annex II. In the absence of information about domestic sales price of subject goods in UAE and evidence about exports to other countries from UAE, cost of production of UAE producers, the Authority considers it appropriate to determine normal value on the basis of a reasonable estimate of cost of production of subject goods in the country of origin plus a reasonable amount for administrative, selling and general costs and for profits. The applicant had furnished information in this regard in the application. The Authority has considered the cost of major raw material base paper and other chemicals during the POI on the basis of actual data of procurement/imports. International cost of raw material excluding any duties, as per records available in India, has been considered. Other costs viz. utilities, selling, general and administrative expenses etc. have been taken on the basis of verified information of the domestic industry. A reasonable profit margin has been added to arrive at the normal value which is determined as US\$\*\*\* PMT.

### **14. Export Price for UAE**

None of the exporters from UAE have given information regarding export price. The Authority has considered the information furnished by the petitioner regarding export prices which is based on the data obtained from M/s Informant, Mumbai and M/s Exim Infoline, Chennai. The authority has also considered the import data received from DGCI&S. Based on this information, the export price from UAE is US\$ 1388.31. Appropriate adjustments have been made from the average CIF price on account of sea freight, insurance, commission, inland freight and port expenses. The net export price arrived is US\$ \*\*\* PMT.\_

### **15. Dumping Margin :**

The Authority followed the consistent practice of adopting the principles governing the determination of Normal Value, Export Price and Margin of Dumping as laid down in Annexure I to the anti-dumping rules. Dumping margins have been determined on the basis of a fair comparison of Export Price with the Normal Value in pursuance of the principle laid down in Para 6 of Annexure-1 to the Rules. The comparison is at the same level of trade, i.e. Ex-factory level. Normal Value at ex-factory level has been compared with the export price at ex-factory level of relevant

comparable type of Thermal Sensitive Paper. Based on the Normal Value and export price as determined above, the Authority has determined the following dumping margins (%):

	<b>M/s PT Pindo Deli, Indonesia</b>	<b>Malaysia</b>	<b>UAE</b>
Normal Value	***	***	***
Export Price	***	***	***
Dumping Margin	***	***	***
Dumping Margin %	22.82	92.94	70.29

## **D. INJURY TO THE DOMESTIC INDUSTRY**

### **16. Rule 11 of Anti Dumping Rules reads as follows:**

#### Determination of Injury:

- i. In the case of imports from specified countries, the designated authority shall record a further finding that import of such article into India causes or threatens material injury to any established industry or materially retards the establishment of any industry in India;
- ii. The designated authority shall determine the injury to domestic industry, threat of injury to domestic industry, material retardation to establishment of domestic industry and a causal link between dumped imports and injury, taking into account all relevant facts, including the volume of dumped imports, their effect on price in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles and in accordance with the principles set out in Annexure II to these rules.

### **17. The principles for determination of injury set out in Annexure-II of the Anti-Dumping Rules lay down that:**

- a. A determination of injury shall involve 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 like article and (b) the consequent impact of these imports on domestic producers of such products.
- b. While examining the volume of dumped imports, the said Authority shall consider whether there has been a significant increase in the dumped imports, either in absolute terms or relative to production or consumption in India. With regard to the effect of the dumped imports on prices as referred to in sub-rule (2) of Rule 18 the Designated Authority shall consider whether there has been a

significant price under-cutting by the dumped imports as compared with the price of like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increase which otherwise would have occurred to a significant degree.

#### **18. Issues raised by the domestic industry :**

The domestic industry has furnished information in the application regarding injury in respect of all the parameters. It had claimed that material injury was earlier caused due to the dumped imports from Japan, China and EU. The Designated Authority conducted investigations in respect of these countries and recommended imposition of anti dumping duty. The domestic industry is again suffering material injury now from the dumped imports from Indonesia, Malaysia and UAE. The domestic industry made following claims regarding injury:

##### Imports :

Imports from subject countries have increased in relation to imports of the product in India. Import from subject countries have increased in relation to the demand of the subject goods in India.

##### Production, capacity utilization and sales :

Production and capacity utilization has declined in comparison to previous years. Sales volumes have declined significantly in spite of efforts of the domestic industry to sell its products. If the trend of dumped imports from subject countries continues, the domestic industry would lose further sales as in spite of reducing prices, the imports are under cutting the prices of the domestic industry. Increase in imports and its market share has direct impact over potential decline in sales of the domestic industry.

##### Factors affecting the domestic prices :

The domestic industry is facing severe price undercutting due to dumped imports.

The landed price of imports from subject countries is causing severe price suppression and depression effect.

The landed price of imported material is significantly below the non-injurious price of the domestic industry and is thus resulting in severe price under selling.

**Employment** - The company is a multi-product company and is struggling with the dumping of the product from various sources. It has to maintain its employees and there are no significant changes in the employment level.

**Wages** - According to the prevailing laws of the country, the company had to increase wages of its employees.

**Profitability** - The company's losses have increased and profitability has further deteriorated.

**Return on capital employed** - The actual return on capital employed remains negative and has further deteriorated.

**Productivity** - The decline in production of the domestic industry directly resulted into reduction in productivity of the domestic industry. The productivity has declined on the basis of production per day and on the basis of productivity per employee.

**Market Share in demand** - Detailed methodology for assessment of consumption of Thermal Sensitive Paper in India had been described in the petition. On the basis of the assessed demand, market share of domestic industry in demand has declined significantly. The share of the dumped imports from the subject countries has increased significantly.

**Dumping Margin** - Dumping margin in respect of dumped imports from subject countries is very significant.

**Cash Flow** – The company is multi-product company and accordingly to generally accepted accounting principles, does not require maintaining separate cash flow for the said product. Therefore, the cash flow for the company as a whole may not show correct picture of state of affairs of the company.

**Growth** - Due to dumping of the subject goods, the sales quantity as well as turnover of the product declined in 2002-03. The domestic industry, which had positive growth till 2001-02, had negative growth in POI.

**Ability to raise fund / capital investment** - The company cannot raise any fund or capital due to continued losses as the company is struggling due to dumping from one after another source.

#### **19. Arguments raised by M/s PT Pindo Deli, Indonesia – Exporter:**

It is demonstrated by Pindi Deli's verifiable response that it has not exported the goods under consideration to India at dumped prices. Consequently, any injury experienced by the petitioner cannot be by reason of dumping by Pindo Deli.

#### **20. Arguments made by Sumat Pershad & Sons, Delhi – Importer:**

- i. The domestic industry has incorrectly assessed the demand of the subject goods during POI as 2000 MT whereas the demand is about 12600 MT.
- ii. Petitioner claims that they produce all types of thermal paper which is false. The quality of the product made by the petitioner is not good. They have not been able to supply any lottery organizer.
- iii. In spite of a healthy increase in the demand of Thermal Sensitive Paper in the country, the petitioner never increased the installed capacity of their factory after 1999.
- iv. Due to huge gap between the installed capacity and the demand in the country, imports is the only measure by which this huge gap can be curtailed. The petitioner is not able to achieve the production as per their installed capacity because they lack the required technology and the raw material for the same.
- v. For production of quality thermal paper, the manufacturer is required to use the top coated grade of base paper and then treatments are done over it to convert into thermal sensitive paper. Instead the petitioner uses uncoated base paper and converts it into Thermal Sensitive Paper. As a result there are decal problems and they cannot utilize their installed capacity.

**21. Domestic Industry gave rebuttals to the various arguments made by the interested parties on the issue of injury.**

- i. As regards demand of the subject product, it has been stated that the information provided by the importer M/s Sumat Pershad & Sons pertained to the year 2003-04 which is outside the POI. Even this showed imports of maximum 2059 MT. This could also include imports of products other than thermal paper. On an analysis, the imports of thermal paper can at best be 1850 MT during POI. Adding to this the domestic sales of 1019 MT of the petitioner and 332 MT of M/s Alpha Carbonless, the total demand works out to 3201 MT. The importer had shown the demand as 10200 MT during POI which is contrary to facts and much exaggerated
- ii. Meeting of the entire domestic demand of a product is not a pre-condition to seek relief from dumping. Purpose of imposition of anti dumping duty is not to restrict imports. Even after imposition of duty, imports can be made. The domestic industry is seeking imposition of anti dumping duty on unfairly dumped price import. As regards quality, the subject goods produced by the petitioner are at par with the international quality goods. Petitioner has collaboration with M/s Hansol of Korea. The production process for the subject goods involves coating of base paper with speciality chemicals. The base paper used by the petitioner is also a coated paper.
- iii. The petitioner is offering thermal paper in various GSM as is evident from the product brochure.

22. No comments have been received from the importer in response to the Disclosures. M/S Pindo Deli has argued that the Authority has erroneously considered the domestic industry to be just Shree Krishna whereas it includes Alpha. Further, the Authority has incorrectly reported decline in sales and production volume and market share of domestic industry. In fact, the domestic industry's sales and production increased during POI, while its market share was 74.21% and not 55.44% at that time. Regarding profitability, the statement about company's losses having increased and profitability deteriorated is not consistent with Shree Krishna's annual report for 2002-03 which reports a substantial increase in net profit.

### **23. Cumulative assessment of injury:**

As per annexure-II (iii), 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. The Authority has found 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%.

With a view to assess the conditions of competition between imported products and the conditions of competition between the imported products and the like domestic product, the Authority's views are that:

- i. The subject goods have been imported from the subject countries under the same tariff classification;
- ii. The Authority has found that the imported subject goods are commercial substitutes of the domestically produced Thermal Sensitive Paper.
- iii. The information furnished by the importer gives a reasonable indication that the exports made from the different subject countries compete in the same market as these are similar products.
- iv. Therefore, the Authority found it appropriate to cumulatively assess the effect of imports of the subject goods on the domestically produced like article in the light of conditions of competition between imported products and the conditions of competition between the imported products and the like domestic product. The Authority found that there is a cumulative effect of injury by imports of subject goods from subject countries on the domestic industry.

## 24. Examination of Injury by the Authority :

The Authority has examined the arguments on injury and found that M/s Shree Krishna accounts for a major proportion of the domestic production of subject product and the other producer M/s Alpha declined to participate in the investigation. The Authority has considered M/s Shree Krishna as the domestic industry. Therefore, assessment of injury parameters has to be seen on the basis of Shree Krishna's performance, the other producer having not furnished the information. However, for assessment of total demand of the product, the production of M/s Alpha has also been included. As regards profitability, the exporter has referred to the annual report of Shree Krishna for 2002-03 which reports an increase in net profit. M/s Shree Krishna produces coated paper also which is a major product of the company. The profitability of Shree Krishna for this investigation has been analyzed with reference to the subject product i.e. Thermal Sensitive Paper.

The authority has also considered other arguments made by the interested parties as regards the injury claimed to have been suffered by the domestic industry. The Authority also conducted verification of information furnished by the domestic industry. As regards the demand of subject product, the authority found that the import data available indicated different figures. However, the data provided by the importer on a CD pertained to the imports made during the year 2003-04, which is outside the POI. Taking into account the information of the secondary sources, ICD, DGCI&S, exporter's response, the authority found that the imports of subject product were as under :

Qty. in MT

Country	1999-2000	2000-2001	2001-2002	2002-2003
Indonesia	--	--	--	298
Malaysia	--	--	--	57
UAE	--	--	--	45
Total imports from subject countries	--	--	--	400
Other countries	182	309	233	74
Total imports	182	309	233	474

The information regarding the various injury parameters has been examined and analyzed by the Authority as under :

## 25. Volume of Imports :

The Authority has taken note of information regarding imports of subject goods as reflected by the official statistics published by the DGCI&S, information furnished in

application based on secondary sources, the responses of the exporter and some importers.

Country	1999-2000	2000-2001	2001-2002	2002-2003
Indonesia	--	--	--	298
Malaysia	--	--	--	57
UAE	--	--	--	45
Total imports from subject countries	--	--	--	400
Other countries	182	309	233	74
Total imports	182	309	233	474

The total imports of subject goods as reflected in secondary source data increased from 182 MT in 1999-2000 to 474 MT in 2002-03 (POI). The imports from subject countries were nil during previous years of injury determination period and which became 400 MT during the POI. These imports represented about 84% of total imports. Therefore, there was an increase in imports of subject goods from subject countries in absolute terms.

## 26. Market share:

The Authority finds that the market share of the domestic industry and the imports from the subject countries in the demand of subject goods has been as under:

	1999-2000	2000-2001	2001-2002	2002-2003
Imports-total	182	309	233	474
Domestic sales of petitioner	1062	1410	1634	1019
Sale of other producers	0	0	0	345
Demand	1244	1719	1867	1838
Imports from subject countries	0	0	0	400
Imports from other countries	182	309	233	74
Share in demand-imports from subject countries (%)	0	0	0	21.76
Share in demand-domestic industry	85.37	82.02	87.52	55.44
Share in demand of other producers	0	0	0	18.77
Share in demand- imports from other countries	14.63	17.98	12.48	4.03

The Authority finds that the share of imports of subject goods from subject countries was nil during previous years and it is now 21.76% during POI. There is thus an increase in the dumped imports from subject countries in relation to the demand of the product in the country. The share of domestic industry in total demand has gone down from 85.37% in 1999-2000 to 55.44% during the POI.

## 27. Production and Capacity Utilisation:

The production and capacity utilization of the domestic industry has been as under :

	1999-2000	2000-2001	2001-2002	POI
Capacity	2000	2000	2000	2000
Production	1075	1504	1582	995
Capacity Utilization %	53.75	75.23	79.13	49.77

The Authority found that there has been significant decline in the capacity utilization of the domestic industry during the period of investigation in comparison to the earlier years. The capacity utilization came down to 49.77% during POI where it had reached 79.13% in previous year.

## 28. Sales Volume:

Sales volumes of petitioner company decreased from 1062 MT in 1999-2000 to 1019 MT during POI, whereas during the previous year 2001-02, the sales had increased to 1634 MT. The other domestic producer started production only in the year 2002-03. The decline in sales volume during the POI are considered significant in comparison to the previous year.

	1999-2000	2000-2001	2001-2002	POI
Sales of petitioner	1062	1410	1634	1019
Other producer	0	0	0	345
Total sales	1062	1410	1634	1364

## 29. Inventory :

	1999-2000	2000-01	2001-02	POI
MT	14	95	44	19
% of sales	1.32	6.74	2.69	1.86

The inventory of finished stock of the domestic industry as a percentage of sales has marginally increased during the POI in comparison to the year 1999-2000, however, it has dropped in comparison to the previous two years.

## 30. Price Undercutting

The Authority found that the price undercutting due to the dumped imports has been as under :

	Indonesia-Pindo Deli	Malaysia	UAE
Average NSR	***	***	***
Landed Value	***	78768	88973

Price Undercutting	***	***	***
%age Price Undercutting	***	***	***
Price under-cutting range	20-30%	15-25%	6-15%

The authority found that the price under cutting as a result of dumped imports has been quite significant.

### 31. Price underselling

The Authority found the price underselling as a result of dumped imports as under:

	Pindo Deli, Indonesia	Malaysia	UAE
Non-Injurious Price (NIP)	***	***	***
Landed Value	***	78768	88973
Price Underselling	***	***	***
%age Price Underselling	***	***	***
Price under-selling range	40-50%	32-42%	25-35%

The authority found that the extent of price underselling has been very significant as the landed value of imports of subject goods of subject countries has been significantly lower than the non-injurious price of the domestic industry.

### 32. Factors affecting domestic prices :

The Authority found that the level of price undercutting is significant as a result of dumped imports. Further, the extent of price under selling is much more severe as the landed value of imports is significant lower than the non-injurious price of the domestic industry. The Authority also found price suppression as a result of dumped imports as the domestic industry could not raise its selling price despite increase in cost of production during the POI. The information regarding the development of sales realization and cost of production of the domestic industry was found to be as under (indexed):

	1999-2000	2000-2001	2001-2002	2002-2003
Cost of production	*** 100	*** 95.3	*** 91.28	*** 109.36
Selling price	*** 100	*** 121.26	*** 115.22	*** 108.58

### 33. Magnitude of the margin of dumping :

The Authority found that the magnitude of the margin of dumping of subject goods from the subject countries has been in the range of 22.82% to 92.94%, which is considered significant.

### 34. Employment :

The employment level of the company has been as under : (Indexed)

1999-2000	2000-01	2001-02	POI
100	108.57	114.29	117.14

The authority found that there has not been any significant change in the employment level of the company. The petitioner company is a multi-product company and the numbers of employees are common for all the products of the company. This parameter is, therefore, considered to be not very relevant for injury assessment.

### 35. Wages :

The authority found that the payment of wages to employees was as under: (Indexed)

1999-2000	2000-01	2001-02	POI
100	113.73	115.69	125.49

The authority noted that there has been increase in payment of wages as a result of statutory requirement for annual increments to workers. However, as the company is a multi-product company, this parameter may not give a clear guidance regarding injury.

### 36. Profitability:

The domestic industry has suffered direct losses on per unit sale of subject goods as per information below :

Year	Net Sales Realization (Rs./PMT)	Cost of Production (Rs./PMT)	Profit/Loss per MT Indexed
1999-2000	***	***	(-) ***
Indexed	100	100	-100
2000-01	***	***	(-) ***
Indexed	121.26	95.30	-45.62
2001-02	***	***	(-) ***
Indexed	115.22	91.28	-45.49
2002-2003	***	***	(-)***
Indexed	108.58	109.36	-110.85

The Authority found that the per unit losses on the sale of subject goods have increased significantly during the POI in comparison to the earlier years. Since the company is suffering losses, the return on investments is negative.

### 37. Actual and potential negative effect on cash flows

The authority noted that the company produces other products also. The cash flow of the company with regard to other products has been positive but the cash flow has remained adverse in respect of production and sale of subject goods. The Authority found that the domestic industry has suffered cash loss during the period of investigation in the sale of subject goods, which has caused strain on the cash flow position of the company as a whole.

The figure of cash profit in respect of subject goods has been found as under(Indexed):

Rs./Lacs

1999-2000	2000-01	2001-02	POI
***	***	***	***
-100	-55.5	-65.61	-104.95

### 38. Growth:

The Authority found that because of losses, it would not be feasible for the domestic industry to make any new investment. Factors such as production and sales of subject goods showed negative trends of growth during the POI.

		1999-2000	2000-01	2001-02	POI
Growth in Turnover (%)	Indexed	-	61.00	10.10	-41.21
Domestic Sales Value	Rs. Lacs	955.75	1538.73	1694.16	996.04
Growth in Sales Volume (%)	Indexed	-	32.77	15.88	-37.62

### 39. Productivity :

The productivity has been as under :

	1999-2000	2000-01	2001-02	POI
Production MT/employee	***	***	***	***
Indexed	100	128.92	128.81	79.04

The authority found that there is a significant decline in productivity during the POI. This is largely attributed to the decline in production of the domestic industry during the POI.

### 40. Conclusions on injury:

The Authority noted that factors such as production, capacity utilization, sales, profitability and productivity indicate negative trends during the POI in comparison to the year 1999-2000 and the years prior to the POI. The inventory of finished goods has, however, shown declining trend. The share of the domestic industry in the demand has declined to 55.44% in the POI as against 85.37% during the year 1999-2000. The share of the dumped imports from subject countries in total demand is 21.76% during POI as against nil during previous years. This loss of market share of domestic industry can be largely attributed to the dumped imports from the subject countries.

The price effect of the dumped imports is evident from the price undercutting suffered by the domestic industry as a result of the dumped imports. There is also price suppression. The industry also has suffered price underselling as the landed value of dumped imports is significantly lower than the non-injurious price of the domestic industry. The industry has suffered cash losses in the sale of subject goods. The return on investment continues to be negative. The above parameters show that the domestic industry has suffered material injury.

#### **41. Causal Link**

Arguments have been raised that the demand of subject goods is growing and in such a situation, increase in imports is inevitable. It has also been argued that the petitioner has not increased its production capacity and the quality of their product is not good. Protection by anti dumping duties would probably grant the domestic industry a monopoly status in the Indian market.

The Authority has considered the views expressed by the petitioner and other interested parties as regards the causal link. The Authority found that the technology adopted by the domestic industry for the manufacture of Thermal Sensitive Paper is comparable with that adopted by the exporter. Based on the verification of the data of the sole co-operative exporter from Indonesia, the Authority had found that exports are at dumped prices. The Authority also noted that the domestic producer is faced with the competition from producers located in various countries. The evidence of the investigation indicates that the selling prices realized by the domestic industry are largely impacted by the prices of the imported subject goods. The Authority found that the demand of the subject goods has been increasing, though during the POI the assessed demand indicated some decline. The domestic producer is using the contemporary technology and therefore, these factors cannot be attributed as the cause of injury. The imports of subject goods from EU, Japan and China are already attracting anti dumping duty and therefore, imports from these countries cannot be the cause of injury. No other material factor that may be a cause of injury has come to the notice of the Authority. The Authority concludes that the domestic industry has

suffered material injury as a result of dumped imports of subject goods from subject countries.

## **E. PRICE UNDERTAKING**

42. In response to the Disclosure Statement, M/s Pindo Deli gave an offer of price undertaking in the event of a preliminary affirmative determination of dumping and injury as per Article 8 of Agreement. The price undertaking offer was to the price level considered by the Authority as sufficient to eliminate the injurious effect of the dumping.

43. The Authority noted that in this case the normal value in respect of M/s Pindo Deli had been determined on the basis of cost of production plus a reasonable amount of profit. As per Rule 15(6), where the Designated Authority has accepted any undertaking under sub-rule (1) it may require the exporter from whom such undertaking has been accepted to provide from time to time information relevant to the fulfillment of the undertaking and to permit verification of relevant data. As the normal value in this case was determined on the basis of cost of production plus profit and not on the basis of domestic sales, it was found impracticable by the Authority to verify the cost of production each time there would be a change necessitating upward revision of the normal value and the agreed export price. In the circumstances of the case, the Authority found that it might be difficult to accept the price undertaking, as it will be impractical to verify the cost of production of the exporter so frequently. The Authority informed to the exporter the reasons for the non-acceptance of the offer of price undertaking and also considered the comments made by the exporter. After considering the comments, the Designated Authority held that acceptance of the proposed price undertaking was impractical in this case for the reasons stated above, in accordance with Rule 15(3).

## **F. INDIAN INDUSTRY'S INTEREST**

44. 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.

45. The Authority recognizes that the imposition of anti dumping duties might affect the price levels of the 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. With a view to minimize the impact on the downstream industry, the Authority has considered it appropriate to recommend anti dumping duty based on the lower of the dumping and injury margins. The Authority notes 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.

## G. CONCLUSIONS

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

- i. Thermal Sensitive Paper has been exported to India from subject countries below their normal value;
- ii. The domestic industry has suffered material injury;
- iii. The material injury has been caused by the dumped imports from subject countries;

47. It is considered necessary to impose definitive anti-dumping duty on the imports of subject goods. Accordingly, the Authority recommends imposition of anti dumping duty on the imports of Thermal Sensitive Paper.

48. It is decided to recommend the amount of anti-dumping duty equal to the margin of dumping or less, which if levied, would remove the injury to the domestic industry. The landed price of imports was also compared with the non-injurious price of the domestic industry, determined for the period of investigation. Accordingly, it is proposed that definitive anti-dumping duties be imposed on Thermal Sensitive Paper originating in or exported from the subject countries falling under Heading 4809.10, 4811.90 & 4816.20 of the Schedule I of Customs Tariff Act. The anti-dumping duty shall be the difference between the amount mentioned in Col. 9 in the following Table and the landed value of imports of the subject goods in US\$/MT:

S.No	Sub-Heading	Description of Goods	Specification	Country of Origin	Country of Export	Producer	Exporter	Amount	Unit of Measurement	Currency
1	2	3	4	5	6	7	8	9	10	11
1.	4809.10 4811.90 4816.20	Thermal Sensitive Paper	All types	Indonesia,	Any country	Any producer	Any exporter	1730.15	MT	US\$

2.	4809.10 4811.90 4816.20	Thermal Sensitive Paper	All types	Any country	Indonesia	Any producer	Any exporter	1730.15	MT	US\$
3.	4809.10 4811.90 4816.20	Thermal Sensitive Paper	All types	Malaysia	Any country	Any producer	Any exporter	2626.82	MT	US\$
4.	4809.10 4811.90 4816.20	Thermal Sensitive Paper	All types	Any country	Malaysia	Any producer	Any exporter	2626.82	MT	US\$
5.	4809.10 4811.90 4816.20	Thermal Sensitive Paper	All types	UAE	Any country	Any producer	Any exporter	2626.82	MT	US\$
6.	4809.10 4811.90 4816.20	Thermal Sensitive Paper	All types	Any country	UAE	Any producer	Any exporter	2626.82	MT	US\$

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

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

**Christy L. Fernandez**  
Designated Authority