

**TO BE PUBLISHED IN PART 1 SECTION-1 OF
GAZETTE OF INDIA- EXTRAORDINARY**

Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Anti-Dumping & Allied Duties
4th Floor, Jeevan Tara Building, Parliament Street, New Delhi

Dated the 23rd April, 2018

FINAL FINDINGS

Subject: Sunset Review of Anti-Dumping Duty imposed on imports of Digital Offset Printing Plates originating in or exported from China PR

1. F. No. 15/24/2016/DGAD: Having regard to the Customs Tariff Act, 1975, as amended from time to time (hereinafter also referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules 1995, as amended from time to time (hereinafter also referred to as the Rules) thereof; the original investigation concerning imports of the subject goods from the subject country was initiated by the Authority vide Notification 14/7/2011-DGAD, dated 13.06.2011 and the final finding was notified by the Authority vide Notification No. 14/7/2011-DGAD dated 03.10.2012. Accordingly, Customs Notification No. 51/2012-Customs (ADD) dated 03.12.2012 was issued imposing duty on the basis of reference price.
2. And whereas, M/s TechNova Imaging Systems (P) Limited (hereinafter also referred to as “Petitioner” or “Applicant” or “domestic industry”) filed an application in the present case before the Designated Authority (hereinafter also referred to as the Authority) in accordance with the Act and the Rules for initiating sunset review of the anti-dumping duty on imports of Digital Offset Printing Plates (hereinafter also referred to as the subject goods), originating in or exported from China PR (hereinafter also referred to as the subject country) and requested for continuation of anti-dumping duties on the imports of the subject goods, originating in or exported from the subject country.
3. And whereas, the Authority on the basis of prima facie evidence submitted by the Applicant to justify initiation of sunset review investigation issued a public notice vide Notification No. 15/24/2016-DGAD dated 25th April, 2017 to examine whether the expiry of the said duties on the import of the subject goods originating in or exported from the subject country is likely to lead to the continuation or recurrence of injury to the domestic industry. The validity of the anti-dumping duty on the

imports of the subject goods from the subject country was extended by the Central Government up to 3rd June, 2018, vide Notification No. 24/2017-Customs (ADD), dated 2nd June, 2017.

4. The scope of the present review covers all aspects of the original investigation concerning imports of the subject goods, originating in or exported from the subject country.

A. PROCEDURE

5. Procedure described below has been followed with regard to this investigation, after issuance of the public notice notifying the initiation of the above investigation by the Authority:
 - i. The Authority notified the Embassies/Representatives of the subject country in India about the receipt of the anti-dumping application before proceeding to initiate the investigations in accordance with sub-rule (5) of Rule 5 supra.
 - ii. The Authority sent a copy of the initiation notification to the embassy of the subject country in India, known producers/exporters from the subject country, known importers/users in India, other Indian producers and the domestic industry as per the addresses made available by the applicants and requested them to make their views known in writing within 40 days of the initiation notification.
 - iii. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters and to the Embassy of the subject country in India in accordance with Rule 6(3) of the Rules supra.
 - iv. The Embassy of the subject country in India was also requested to advise the exporters/producers from the subject country to respond to the questionnaire within the prescribed time limit. A copy of the letter and questionnaire sent to the producers/exporters was also sent to the Embassy along with the names and addresses of the known producers/exporters from the subject country.
 - v. The Authority sent Exporter's Questionnaire and Supplementary Questionnaire to the following known producers/exporters to elicit relevant information in accordance with Rule 6(4) of the Rules:
 - a. Kodak (China) Graphic Communication, China PR
 - b. Fujifilm Printing Plate (China) Co. Ltd., China PR
 - c. Xingraphics, China PR
 - d. The Second Film Factory of Lucky Group, China PR

- vi. In response to the above notification, the following exporters/ producers responded and submitted questionnaire responses.
 - a. M/s FUJIFILM (China) Investment Co., Ltd.
 - b. M/s Fuji Films Printing Plates (China) Co., Ltd.
 - c. Kodak (China) Investment Co. Ltd.
 - d. Kodak (China) Graphic Communication Co. Ltd.
 - e. Lucky Huaguang Graphics Co Ltd

- vii. The Authority sent Importer's Questionnaires to the following known importers/users of subject goods in India calling for necessary information in accordance with Rule 6(4) of the Rules:
 - a. Kodak India Private Ltd., Mumbai
 - b. Fujifilm India Private Ltd., New Delhi
 - c. Newstech (India) Pvt. Ltd., Mumbai
 - d. Kapoor Imaging Private Ltd., Chennai
 - e. Heidelberg India Pvt. Ltd., Chennai
 - f. Bennet, Coleman & Co. Ltd., Mumbai
 - g. Jagran Prakashan Ltd., Kanpur

- viii. The following importers of the subject goods responded by filing questionnaire responses.
 - a. Fuji Film India Private Limited
 - b. Kodak India Private Limited
 - c. Kapoor Imaging Private Limited
 - d. Nippon Color

- ix. The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by the interested parties;

- x. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to provide the transaction-wise details of imports of subject goods for the past three years, and the period of investigation, which was received by the Authority. The Authority has relied upon the DGCI&S data for computation of the volume of imports and required analysis after due examination of the transactions. The Authority also obtained data from DG Systems of POI to correlate with the DGCI&S data wherever required.

- xi. The Non-Injurious Price (NIP) based on the optimum cost of production and cost to make & sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) and Annexure III to the Anti-dumping Rules has been worked out so as to

ascertain whether Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to the Domestic Industry.

- xii. The Authority held an oral hearing on 27th February, 2018 to provide an opportunity to the interested parties to present relevant information orally in accordance with Rule 6 (6), which was attended by the representatives of domestic industry and other interested parties. All the parties who presented their views in the oral hearing were requested to file written submissions of their views expressed orally. The parties were also advised to collect written submissions made by the opposing parties and were requested to submit their rejoinders thereafter.
- xiii. The verification of the information provided by the domestic industry was carried out to the extent considered necessary. Only such verified information with necessary rectification, wherever applicable, has been relied upon.
- xiv. The Period of Investigation (POI) for the purpose of the present review investigation is April 2016 – March 2017 (12 months). The examination of trends in the context of injury analysis covered the periods 2013-14, 2014-15, 2015-16, POI and post POI (6 months) for likelihood analysis.
- xv. The submissions made by the interested parties during the course of this investigation, wherever found relevant, have been addressed by the Authority, in this final findings.
- xvi. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.
- xvii. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has considered such parties as non-cooperative and recorded the views/observations on the basis of the facts available.
- xviii. The Authority issued a disclosure statement under Rule 16 on 9th April, 2018 and provided an opportunity to give comments to the disclosure statement till 16th April, 2018.

- xix. In this final findings, ‘***’ represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules. () bracket in this final findings indicates negative number/range.
- xx. The exchange rate for the POI has been taken by the Authority as Rs.67.96 = 1 US\$.

B. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

B.1 Views of the Domestic industry

6. The views of the domestic industry are as follows:

- i. The product under consideration was defined by the Authority as under in its final finding dated 3rd October 2012 in the original investigation. The description of the subject goods or its use has not undergone any change during the past five years. This being a investigation for reviewing the need for continuation of anti-dumping Duty, the scope of the PUC should be maintained as in the original investigation. The scope of PUC cannot be changed in a sunset review.
- ii. There is no known difference in the PUC exported from China PR and that produced by the Indian industry. In the present case, both the imported and the domestic product have comparable characteristics in terms of parameters such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification, etc.
- iii. Digital Plates are classified under Tariff Item ‘8442.50.20’ of the Customs Tariff. However, there have been imports of the subject goods under other Tariff Items such as 3701.30.00, 3704.00.90, 3705.10.00, 7606.91.91, 7606.92.90, 8442.50.10, 8442.50.39, 8442.50.90, 3701.99.90, 3705.90.90, 3701.91.90, 7606.92.90, 7610.90.20, 7606.12.00, 7606.11.90 and 7616.99.90 as well.
- iv. No new evidence has been brought forward by any of the interested parties for altering the scope of PUC. No evidence has been adduced by the importer who argued during the public hearing that certain grades of digital plates are not manufactured by the Petitioner.
- v. The Petitioner manufactures all types and grades of digital plates as has also been verified by the Authority during the on-site verification.

B.2 Views of the other interested parties

7. The following interested parties have made submissions as follows:

- i. M/s TPM Consultants on behalf of Kapoor Imagings Pvt. Ltd., Lucky Huaguang Graphics Co. Ltd. and Shangai Strong State Printing Equipment Ltd. has submitted that there are three types of the product under consideration and the duties have also been levied on benchmark basis separately for the three types of the product under

consideration. However, petitioners have provided no data for the three types separately.

- ii. M/s Nippon Color has submitted the following:

It was earlier pointed out by us that there are different types of Digital Plates, some of which are not even manufactured by the DI and hence imposition of ADD on such plates is improper. It is further requested that even if the ADD Notification is being extended, then products which are definitely not manufactured by the DI such as Processless Thermal/CTcP/Violet Plates in all thickness and sizes, PS/CTcP/Thermal & Violet Plates in thickness of 0.24mm, Double Layer CTCP plates in all thickness & Sizes & Negative working CTcP/PS/Thermal Plates in all thickness & Sizes should be specifically exempted from the ADD since the field custom officials stop all consignment of CTCP/Thermal/Violet plates without any such distinction.

It bears mention that the ADD Notification is specific to three types of Digital Plates. The DI in his application has not bifurcated the data as to the manufacture & sale of various types of digital plates, thickness wise. Since the market is based on different types of plates and the thickness is a relevant factor for purchase and sale of such digital plates, the application is defective for not revealing full & proper data and hence the application itself is defective and the proceedings for extension of anti-dumping should be dropped as being ab-initio void.

B.3 Examination by the Authority

8. The product under consideration in the present investigation is Digital Offset Printing Plates (hereinafter also referred to as "Digital Plates"). Digital Plates are used in the printing industry for transferring data as an image (dot patterns or text) onto paper or on non-absorbent substrates like tin sheets or poly films etc. In the printing process using digital plates, the digital workflow enables direct transfer of image from a 'computer to the plate' (CtP) using lasers unlike the analogue workflow that requires an intermediary film to transfer the image. Digital plates are made from high-purity litho-grade aluminum coils coated with a chemical coating. Digital plates may be either positive (non-exposed area forms image) or negative (exposed area forms image) working plates. The coating components, also known as 'sensitizers' vary for different types of plates.
9. All types of digital plates in all dimensions are covered within the scope of the product under consideration.
10. Thus, the Authority holds that the subject goods produced by the applicant domestic industry is like article to the product under consideration exported from the subject country, in accordance with the AD Rules.

C. SCOPE OF DOMESTIC INDUSTRY AND STANDING

C.1 Views of the domestic industry

11. Following submissions have been made by the domestic industry:

- i. The petition has been filed by M/s TechNova Imaging Systems (P) Limited (hereinafter also referred to as “TechNova”). TechNova accounts for substantial share (around 98%) in production of the product concerned in India.
- ii. There are some other small producers of subject goods in the country. In addition there are several other entities which are in the process of setting up plant for subject goods, which will certainly increase the domestic production capacity in India.
- iii. Further, two of the domestic producers of the subject goods in India: M/s. Metrostar Prints Solutions Pvt Ltd, Mumbai and M/s Orion Photosensitive Systems, Satara have filed their respective letters supporting the continuation of anti-dumping duty on imports of the subject goods from the subject country.
- iv. In effect, there is no change in the composition of the domestic industry as compared to the original investigation.

C.2 Views of the other interested parties

12. The following interested parties have made submissions as follows:

- i. M/s Metrostar Print Solutions Pvt. Ltd. has submitted the following:

The company has invested more than Rs. 30 crores, out of which the promoters have put in more than Rs. 22 crores of their own funds, in a state of the art plant in Maharashtra ensuring jobs to more than 80 families in the professional, skilled and semi-skilled category. The initial installed capacity of the unit is 4.0 million m² and the factory will support more than 100 different vendors for their daily requirement. We completed the erection and commissioning of the plant by June, 2017 and commercial production was streamlined by August, We have therefore not only ensured job creation but also created an eco-system of vendors and customers that will expand the GDP of Maharashtra and India.

The petitioner i.e. TechNova imaging Systems Pvt. Ltd (TechNova) has made detailed submission on injury during the period of investigation and also on likelihood of dumping and injury to the domestic industry. MPSPL strongly supports; the submissions made by TechNova.

- ii. M/s TPM Consultants on behalf of Kapoor Imagings Pvt. Ltd., Lucky Huaguang Graphics Co. Ltd. and Shangai Strong State Printing Equipment Ltd. submitted that

the petition claimed only two other domestic producers other than the petitioner, i.e., Orion Photosystems, and Transtech Imaging. Metro Star Print Solutions Pvt. Ltd is a new producer named by the petitioner at this stage. Further public records shows that the said company came into existence on 24th March 2011 and thus is not a new producer. Petitioner has misrepresented the facts before the Authority.

- iii. M/s Orion Photosensitive Systems submitted that they were manufacturers of Digital Offset Printing Plates since 2013 and had invested approximately Rs.2500 Lakh capital and provided direct employment to 20 workers and indirect employment to 30 people. They mainly produce two categories of the PUC i.e. UV (CtCP) and Thermal Printing Plates.

They have already provided full support to the Domestic Industry M/s TechNova Imaging Systems (P) Ltd in this investigation to seek an extension on Anti-dumping duties for further 5 years.

- iv. M/s Nippon Color submitted during the hearing that some of the persons holding themselves to be representatives of newspaper industry had requested for continuation of the ADD. The printing industry is not confined to the newspaper industry only, but includes the entire gamut of printing industry, which is involved in the utilization of such plates and their interests ought to be taken into consideration as well.

C.3 Examination by the Authority

13. The petition has been filed by M/s TechNova Imaging Systems (P) Limited which accounts for substantial share (around 98%) in production of the product concerned in India. The Petitioner has neither imported the subject goods from the subject country nor is it related to any importer or exporter of the subject goods.
14. The production by the Petitioner constitutes 'a major proportion' of Indian production of the like product. It is thus, determined that the application has been made by and on behalf of the domestic industry and the application satisfies the requirements of 'standing' under Rule 5 of the AD Rules. Thus, the Petitioner constitutes 'Domestic Industry' in terms of Rule 2(b) of the AD Rules.
15. The Authority notes that Domestic Industry has also imported 8 lakh sqm of process less and chem free digital plates (both violet and thermal) from EU during POI, from their technology collaborator which is about ***% of their total production in POI. These are at prices comparable with prices of subject goods from other non-subject countries, prices of other producers from EU including imports from subject countries. The product has been imported for test marketing of this new product type. The Authority notes that the import prices of these grades from EU are at CIF prices of ***US\$/sqm (thermal) and ***US\$/sqm (violet) which are higher than the prices at which cooperating producer/exporter from China

have exported similar goods to India. On the basis of these imports from non-subject countries at above mentioned price levels, the Authority holds that this does not affect the standing of Domestic industry. The domestic industry or any other interested party has not filed any mid-term review during the currency of the ADD measure from subject country, nor any petition has been filed to claim dumping of subject goods having shifted to non-subject countries. The import of subject goods by domestic industry from EU at prices comparable with other above mentioned sources have neither been claimed as dumped nor injurious. The Authority holds that the quantum and price of these imports have not been a cause of injury to them nor have affected the standing of the petitioner.

D. MISCELLANEOUS ISSUES

D.1. Views of the Domestic Industry

16. The following miscellaneous submissions have been made by the Domestic industry:

- i. The MoU executed between the Petitioner and the All India Federation of Master Printers (the association of users) does not bind the user industry to procure plates exclusively from the Petitioner. The user industry is free to purchase plates from any supplier.
- ii. The MoU provides a fair and transparent pricing methodology for the digital plates which aims to protect the interests of both the Petitioner and the user industry.
- iii. The allegation that injury has been caused due to drop in aluminium prices, the same is devoid of any merits. While it is true that LME prices witnessed fall for certain part of the injury period, the prices have been thereafter moving north as shown in the chart. As and when the LME price moved downwards, the Petitioner lowered its prices of the PUC; however, the Petitioner had to offer much lower prices than what it could have realized based on the MoU given the Chinese producers have been clearing PUC at much lower prices by mis-declaring UV CtP plates as PS Analog plates.

D.2. Views of other interested parties

17. The following miscellaneous submissions have been made by other interested parties in this regard –

- i. M/s APJ-SLG Law offices representing M/s FUJIFILM Printing Plate (China) Co. Ltd. (FFPS), FUJIFILM (China) Investment Co., Ltd. (FFCN) and M/s FUJIFILM India Private Limited (FFIPL) has submitted the following:
 - Fixing of a very high reference price has resulted in creating a sanctuary market for Domestic Industry and a particular exporter namely, Kodak. At the same time, the fixation of an unreasonably high price has blocked the exports of all other suppliers. The sole objective of anti-dumping duties is to remove the adverse effects of

injurious dumping and not to create sanctuary markets for certain exporters and the Domestic Industry. It is also understood that the selling prices of both Kodak and the Domestic Industry are nowhere close to the reference prices fixed for all other suppliers.

- In their application for sunset review, the Domestic Industry very conveniently “forgot” to mention about the mid-term review investigation carried out by the Authority in the present case. As per the Final Findings of the said mid-term review, the said review was terminated on the pretext of a Memorandum of Understanding between the Domestic Industry and the applicants of the said mid-term review. That termination of the said mid-term review on the pretext of a Memorandum of Understanding itself was improper because such termination presumes that by such Memorandum of Understanding the change in circumstances shall be restored to the original position. It is an established legal position that mid-term review investigations are initiated on the submission of change in circumstances as to dumping and injury. It is beyond the understanding of the responding parties as to how a Memorandum of Understanding between Domestic Industry and users restores the changed circumstance. However, the Domestic Industry and the some user associations, in the garb of the said Memorandum of Understanding were able to mislead the Authority to terminate the mid-term review investigation which would have terminated the duties in the present case at that time itself. It goes without saying that while such kind of understanding between a segment of users and the Domestic Industry defeats the purpose of anti-dumping duties, which is to create a fair competitive market, it also can never be in the larger interest of the overall industry.
- The existence of the Memorandum of Understanding also established that any price injury on account of the imports claimed by the Domestic Industry is completely baseless. It is this very Memorandum of Understanding which keeps the Domestic Industry from increasing their prices and as a result, the Domestic Industry is selling the subject goods at a price which is far lower than the reference price fixed by the Authority.
- The scheme of arrangements stated by the Domestic Industry in their written submissions in itself proves that the MoU is nothing but an unfair trade arrangement between the Domestic Industry and a segment of the user industry to keep the exporters and other users out of the market. This is also reflected by the timelines of the MoU provided by the Domestic Industry in the said paragraph. As per the self-admission of the Domestic Industry, the MoU relating to PS analogue plates was entered into by the Domestic Industry and the user industry on 17.12.2007 (3 months after the anti-dumping duties were levied on PS analogue plates by DGAD vide Notification No.14/6/2006-DGAD, dated 23.08.2007). The same parties further entered into an MoU relating to the subject goods on 14.01.2014 (around 14 months after anti-dumping duties were levied on the subject goods by DGAD vide Notification No. 14/7/2011-DGAD, dated 03.10.2012).
- The fact that the Domestic Industry along with a segment of user industry entered into an understanding relating to pricing, after imposition of duties on each of the

products manufactured by them i.e digital plates (subject goods) and analogue plates (which are also manufactured through same plant and machinery), indicates an unfair collision between a segment of user industry and the Domestic Industry to keep the other exporters and users out of the business. Further, the termination of the mid-term review on the pretext of the same MoU also indicates to the unfair trade methodologies adopted by the petitioner and the segment of user industry, which in their own terms is a “win-win” situation for both. The fact is that the Domestic Industry has very cleverly got anti-dumping duty imposed on PS analogue plates and the Digital offset plates, claiming price suppression and depression from the imported goods. While on the same time they also managed the user industries by entering into an understanding relating to pricing with them, thereby effectively suppressing and depressing their own prices in terms of the said MoU’s.

- The Domestic Industry has itself admitted in their written submissions that the “prices are typically established between buyer and seller on the methodology linked to the cost of production and reasonable margin”. In other words it is completely frivolous to say that the imports are affecting the prices of the subject goods in any manner whatsoever or even there is a threat of the imports affecting the prices of the subject goods in the domestic market. Therefore, as per the self-admission of the Domestic Industry, there is no possibility of any price injury to the Domestic Industry due to the imported goods.
 - The petitioner has mistaken itself to believe that the anti-dumping duties also protect their expectations out of some MoU. The protection under the anti-dumping is limited to protecting the Domestic Industry from the negative effects of dumping, the claims of the Domestic Industry proves that they are repeatedly indulging in taking the undue advantage of the anti-dumping duties which is nothing short of abusing the system.
- ii. M/s Dua Associates on behalf of M/s Kodak China Graphic Communication Co. Ltd. (“KCGCCL”), M/s Kodak China Investment Co. Ltd. (“KCICL”) and M/s Kodak India Pvt. Ltd. (“KIPL”) has submitted the following:
- TechNova had initially filed an application proposing POI as October 2015 to September 2016 for initiating sunset review investigation. However, the Authority at the time of issuing the Initiation Notification dated April 25, 2017 expanded the POI and determined the same to be as April 1, 2016 to March 31, 2017. Therefore, it is evident that sufficient data for extended POI was not made available by TechNova to the Authority prior to the initiation of present investigation and therefore, there was insufficient data on record to prima facie examine the claim of injury and dumping, requisite for initiation of present investigation. In view of the same, the initiation of present investigation is contrary to Rule 5 (3) of AD Rules.
 - The revised application for the extended POI was filed by TechNova at much belated stage and the same was made available to interested parties after 63 days from date of initiation.

- Collective reading of the submissions filed by TechNova and the user industry i.e. All India Federation of Master Printers ('AIFMP') reflects that domestic manufacturer and users have entered into MOU to arrive at domestic selling price. The terms of MOU specifically provides that "*the prices are typically established between buyer and seller on the methodology linked to the cost of production and reasonable margin*". Therefore, it is an admitted position that domestic selling prices were not influenced by the import price as the same were based on quarterly prices of Aluminium.
 - Ability to raise investment: The Applicant at Para 15 of the written submissions has confirmed that it proposes to enhance its capacity to the tune of 10 million sqm. In light of the said submission, it is self-evident that there is no adverse impact of imports on the performance of domestic industry and its ability to raise capital investments.
 - In the original investigation, Kodak had not exported Violet or CtCP Plates; and therefore the Authority had not determined anti-dumping duty/benchmark price for the grades / sub-category not exported by Kodak. It is also necessary to note that the aforesaid determination of the Authority was specifically challenged by TechNova before CESTAT, however, after detailed submissions of various interested parties, Hon'ble CESTAT upheld the final findings including the decision of Authority of not recommending benchmark price for such grades. In view of the same, the Authority is requested not to recommend anti-dumping duty for the grades not exported by Kodak during the POI of the present investigation.
- iii. M/s TPM Consultants on behalf of Kapoor Imagings Pvt. Ltd., Lucky Huaguang Graphics Co. Ltd. and Shangai Strong State Printing Equipment Ltd. has submitted the following:
- Petitioner has referred to anti-dumping duty imposed on China by other jurisdictions such as Brazil and South Korea. It is however pertinent to note that the Anti-dumping duty imposed by these countries are on PS plates and not subject goods.
 - Once the petitioner has claimed that MoU has been signed in and the prices are on the basis of such MOU, the petitioner cannot now claim that the MoU has become meaningless
 - PS plate is also attracting ADD and the form of duty is fixed quantum. Thus even if the goods are declared as PS Plate there will be ADD payable on the same. In any case, this becomes an issue of evasion of duty and is thus a custom fraud issue. The correct remedy is not continuation of ADD
 - There is no basis to claim export data of China as confidential. Further, selective exports to few countries does not show the behaviour of the exporters in China and in particular the behaviour of such exporters towards India in the event of cessation of anti-dumping duty

- The capacity information of the producers in China cannot be claimed confidential. Without disclosure of such crucial information the right of the interested parties to participate effectively in the investigation has been hampered
- iv. M/s Nippon Color has submitted that the data has been shown to be confidential and hence it is not possible to challenge the correctness of the same. It is expected that the DGAD will get the same examined with the help of Qualified Chartered Accountants to examine the correctness of the same in relation to the Balance Sheet data. It however, bears mention that from Table 4 relating to manufacture & sale, it is seen that almost the whole quantity manufactured on YOY basis has been sold by the applicant. Hence the so-called dumping has not materially affected the manufacture of the goods by the applicant.

The Anti-dumping duty on digital plates may be discontinued. If, at all, the same is extended, then it should be imposed only on those specific goods which are manufactured by the DI & the ADD should be based on the formula of Previous month closing LME Aluminium price (Thickness based) + Conversion Charges + reasonable profit, as held by the hon'ble Supreme court in the case of Ujagar Prints vs. UOI (1989 AIR 516).

- v. M/s K&T Law offices on behalf of Kohli Graphic Systems (“KGS”) has submitted the following:
- Too much confidentiality in disclosing true statistics and data in regard to its price fixing of the subject good produced by the domestic industry and non-supply of the investigation report prepared by the DGAD in regard to its inquiry conducted for the SSR to make an informed response may amount to grave prejudice and miscarriage of justice.
 - The Authority must provide the abovementioned documents to the parties and KGS and other parties must be given an opportunity to respond to such documents and refute submissions (if any), that have been made falsely.
 - In the presence of the MOU between the sellers of the subject goods and its buyers, it is apparent that they share a strong business relationship which may be continued even in the absence of any intervention by the DGAD in the form of an ADD.

vi. M/s HT Media Limited has submitted the following:

- Hindustan Times Group prints from 19 locations across India and is one of the biggest consumers of Digital Printing Offset Plates in India.
- Historically, in 2008, local manufacturers such as Technova started manufacturing Violet plates in India. Before this significant change, HT Media was completely dependent on plate technology & consumables imported from various countries thereby adding a strain on our operation & financial including cash flows.

- With the introduction of digital violet plates technology by local manufacturers, the cost of such plates have dropped by almost 30% with an added advantage of reduced inventory timelines from an earlier 120 for imports to just 30 days.
- As a leading Newspaper Publishing house, we request you to please consider the following crucial requirement for newspaper printing, which practically are impossible for imports to substitute:-
 - (a) Dedicated technical support with 24 hrs X 7 days a week coverage.
 - (b) Constant need for technology upgrade & customization of Products to meeting custom domestic market requirements.
 - (c) Supply Chain: Our local manufacturers provide inventory support of < 4 weeks (~ 30 days) & readily available stocks nearby to our printing locations inventory levels. Such support for low inventory lead time is impossible with import options and that too with local costs.
 - (d) Fair Price Mechanism: Local manufacturers such as Technova have implemented a very mature, fair & transparent pricing mechanism linked to direct cost input parameters such as Forex and LME referencing. Again, such fair and transparent pricing shall never be available from importers thereby putting us at a risk of abuse by importers and exporters of digital plates if there is no alternative left for supply from domestic manufacturers.
 - (e) Value Added Services: It is a given fact that localized presence, knowledge and experience of Indian Manufacturers like Technova compliments our support needs with respect to services such as safety, Environmental Audits, technology and other consulting services which is unique to our needs. Such Support is not possible from the importers of the digital plates.
- The reason we need the domestic manufactures like Technova to survive would be further elucidated by abusive and unfair practice of exporters from time to time. We would like to quote a recent example on how high dependence on imports has affected us in recent past:-
 - (a) In early 2017, FUJI India, our minor supplier for plates from Netherlands, unwarrantedly & unilaterally decided to increase their prices by almost 30% without any legitimate reasoning. Ultimately, they used it as an excuse to withdraw from the Indian markets. Had it been a situation of domestic manufacturers not being available in strength, we would have been in a grave situation.
 - (b) Newsprint (paper) is the main raw material and our dependence on foreign imports is almost 70%. The import prices of Newsprint have gone up by almost 60% in last two quarters with no future predictability. We are completely at the mercy of foreign suppliers.
- If the current anti-dumping duties on imports of digital plates are allowed to expire, the newspaper printing industry would be left solely at the mercy of exporters from China. From our experience of dealing with the exporters, we can assert that their pricing behaviour is erratic, unpredictable, unfair and often abusive such that they would take benefit of non-supply from local manufacturers to their advantage.

Therefore, it is in our interest to protect local suppliers from dumping of the plates from China. In the short term, the cheap imports would appear attractive, however HT Media is not here for short term and has a very responsible role in making relevant information available in time to crores of India population. In the long run, once the Chinese exporters are able to kill the domestic suppliers like Tec nova, they would increase prices unilaterally and we would be completely left at their mercy.

- M/s Dainik Jagran has also reiterated similar submissions as made by M/s HT Media.

D.3 Examination by the Authority

18. The general issues raised by the parties to the investigation are examined and addressed as provided hereunder:
- i. Information provided by the domestic industry as well as other interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to the other interested parties. While placing ‘NCV’ version of various documents in public file the Authority has followed its consistent practice on considering claims of confidentiality as per AD Rules by different interested parties.
 - ii. The Authority notes submissions made by DI and other interested parties on the MOU signed between DI and the printers association viz. All India Federation of Master Printers. The said MOU was signed in January 2014 while the MTR filed by two members of association (importers) was initiated in September 2014. The intent of the MOU reflects fixation of price of subject goods by DI to users which is linked to the LME prices of Aluminium. The Authority has examined the price determined by MOU and that actually realised by the DI amidst the prices offered by other sources i.e. producers/exporters from China and also other countries. The evaluation as to whether the arrangement of MOU has addressed the concerns of the DI and also need for continuance of ADD has been examined in later paragraphs of this finding.
 - iii. The Authority notes that CESTAT has upheld the original findings of the Authority and therefore the Authority has adopted the same methodology on evaluating dumping margin/injury margin for 3 product types separately for cooperating producer/exporter on the product type exported by them.
 - iv. The Authority noting the submissions by various interested parties and the recent Trade Notice dated 15th March, 2018 issued by DGAD also made available to them the import data analysed by DI through the public file and also a copy of MOU (NCV version) signed between Domestic Industry and the user association.

E. MARKET ECONOMY TREATMENT (MET), NORMAL VALUE, EXPORT PRICE AND DETERMINATION OF DUMPING MARGIN

E.1. Views of the Domestic Industry

19. The domestic industry inter alia submitted as follows:

- i. There are three producer entities/ groups from China PR who have partially responded to exporter's questionnaire in the present investigation. None of the producers/ exporters entities have filed a complete response to the exporter's questionnaire to warrant co-operative status, and therefore, the Authority must not accord them individual dumping margin, based on past precedents.
- ii. Kodak Group must be treated as non-cooperative. While Kodak India Pvt. Ltd has filed importer's questionnaire response, it has not filed transaction-wise data for sales made in India to independent customers. Export price between Kodak (China) Investment Co. Ltd. and Kodak India Pvt. Ltd (which are related parties) is unreliable.
- iii. The export price for Fujifilm Group is not available, and the same must be constructed on the basis of third country sales.
- iv. While Art. 15(a)(ii) of China's Accession Protocol expired on December 11, 2016, the Authority must treat China PR as a non-market economy (NME) in the present investigation for the following reasons:
 - a. A major part of the POI (almost nine months) was prior to December 11, 2016;
 - b. The issue of the legal effect of expiry of Section 15(a)(ii) of the Accession Protocol is *sub judice* before the WTO's Dispute Settlement Body;
 - c. Most member countries within the WTO have not yet recognized that the expiry of Section 15(a)(ii) would mean an automatic migration to a market economy for China PR;
 - d. The Authority has also adopted a similar approach for other investigations.

E.2 Views of the interested parties

20. The following submissions have been made with regard to normal value, export price and dumping margin –

- i. M/s Dua Associates on behalf of M/s Kodak China Graphic Communication Co. Ltd. ("KCGCCL"), M/s Kodak China Investment Co. Ltd. ("KCICL") and M/s Kodak India Pvt. Ltd. ("KIPL") has submitted the following:

- Kodak (China) Graphic Communications Company Limited (KCGCCL) is the producer/exporter of subject goods to India. KCICL is a trader of subject goods, engaged in domestic sales in China PR and KIPL is the importer and trader of subject goods exported by KCGCCL from China PR to India. KCGCCL & KCICL has filed their response to exporter's questionnaire, market economy questionnaire and sunset review questionnaire. In addition to above, KIPL (related importer) has also submitted IQR and additional information, as sought by the Authority. The information filed by Kodak has been duly verified by DGAD officials during on-spot verification.
- During the POI of the ongoing review investigation, out of the three sub-categories of subject goods, Kodak has only exported Thermal Plates.
- The Applicant has claimed LME Aluminium price during Apr-Jun 2014 in range of 2200-2250 USD/MT. However, the LME website reflects the Aluminium price for the said time period to be in the range of 1750-1850 USD/MT.
- The average LME Aluminium price during the POI and injury period has remained in tune of 1800 USD/MT. However, the Applicant has claimed quarterly average price beyond the highest price that prevailed during the corresponding time period.
- During the POI and injury examination period, the maximum Aluminium price as reported on the LME website was 2113 USD/MT (on August 29, 2014). However, the Applicant has claimed the average Aluminium LME prices to the extent of 2400 USD/MT (Jul – Dec 2015). Therefore, it is apparent that the Applicant has filed false and misleading data to reflect higher quarterly average aluminium prices.
- Post the POI period (i.e. Apr-Jun 2017), the Applicant has claimed average LME Aluminium price in tune of 2000 USD/MT. However, the highest price during the corresponding period as reported on the website was 1960 USD/MT (on April 5, 2017).
- In view of the above and to ensure the accurate determination of Normal Value and NIP, the Authority is requested to disclose the aluminium prices considered for determination of dumping and injury margin.
- LME vs. SME: The price of aluminium as reported at Shanghai Metal Exchange ('SME') corresponds with the LME prices and therefore, the claim of the Applicant that Chinese producers were unduly benefitted on account of lower raw material price is baseless and merits rejection. During the injury POI, there is only a difference of 1 % in monthly average prices (during the injury period and POI) on the SME and the LME respectively. Therefore, the claim of the Applicant that the Chinese producers are procuring raw material at unfair prices is contrary to the data on record and should to be rejected.

ii. M/s TPM Consultants on behalf of Kapoor Imagings Pvt. Ltd., Lucky Huaguang Graphics Co. Ltd. and Shangai Strong State Printing Equipment Ltd. has submitted the following:

- The petitioner has emphasised various issues viz Circumvention significantly, import statement showing therein volume, value and average price of imports of the product concerned, product type wise normal value, export price and dumping margin, or a clarification whether the dumping margin was determined on the basis of weighted average only
- The price reported by the petitioner is not representative of actual export price of the subject goods as co related from the secondary source. Imports have occurred at a much higher price than what has been claimed by the domestic industry. Once correct export price is adopted, the dumping margin and injury margin are negative.
- The import analysis done by us using the data procured from secondary source and that done by the petitioner shows significant difference in the import price to such an extent that whereas the petitioner has claimed positive injury margin, the import price as per secondary sources (which corroborates with the export price reported by Lucky) shows that the injury margin is negative. Analysis by us shows that imports have occurred at a much higher price than what has been claimed by the domestic industry.
- There is significant decline in Aluminium price on global basis (prices given are as per LME) since the period of investigation considered in the original investigation which forms the major cost of raw material. Thus, with decline in raw material price, the benchmark fixed has become much more than the margins determined earlier
- It is without any basis to anticipate the effect of section 232 measure imposed by USA on aluminium prices in China. Moreover, petitioner assumed that whereas section 232 measures would lead to decline in input prices in China, it would not be so in India! No basis whatsoever for such an assumption
- Lucky Huaguang Graphics Co. Ltd had in the original investigation claimed MET. However the same was denied by the Authority and thus the petitioner has provided all relevant information to determine its export price

iii. M/s Nippon Color has submitted the following:

- M/s Nippon Color has filed importer questionnaire response detail imports of Aluminium PS plates during POI from China and CTCP plates from non-subject countries i.e. Vietnam, Spain and Taiwan. The importer has mentioned one of the imports from China is in appeal in CESTAT.
- The International Price of Similar Goods from other countries such as Europe, Vietnam, Taiwan & Korea are much less than that fixed by the DGAD i.e. about US \$ 2.65 for CTcP and US \$ 3.00 for Thermal Plates as against US\$ 4.87 for CTcP Plates and US \$ 5.39 for Thermal Plates fixed, hence the ADD is unreasonable. It is

therefore submitted that there is no dumping of the goods in India and that there is no case of continuation of ADD as prayed by DI.

- There is no verifiable data presented by the DI as to the local market price of the goods in China. In such cases, it would be appropriate to take either the international price of such traded goods or the export price of the DI, since he himself is an exporter of such goods. It has been represented during the hearing by the DI & two of the users from Newspaper industry that the products produced by the DI is world class, that being so, it would be appropriate to adopt the International price of such goods for fixing the ADD.
- We had vide our earlier letters sought data as to the import data and the financials of the applicant, without which it is difficult to make sense out of the tables submitted by the DI. The so-called DGCIS data may kindly be got examined to verify the correctness of the averments made in the application. The DGCIS data may be inclusive of all types of printing plates including analog plates etc. and other goods falling under the said HS Code. In such a case, it would be improper to consider such data for purpose of verifying the dumping, if any.
- The total Ex-factory Export Price does not seem to be proper. There is no empirical data to show that the goods are imported at Rs. *** in any port in the POR. Without such data as to the exact item imported whether it is Digital or Analog or whether CTCP or Violet or Thermal etc, it appears that the applicant has suppressed the price of the goods sold to India.
- It is also not known as to how the ocean freight has been calculated at Rs. 7.56/Sq Mt, when the applicant has not imported a single consignment from China himself. He ought to have taken the customs valuation rule methodology of taking 20% of FOB price when the same is unascertainable. If one take 20% from the alleged CIF price, the ex-factory export price becomes 154.86 (US \$ 2.27), which is absurd. Hence the application itself is defective in its pronouncements.
- The data provided by the applicant is not backed by any data as to the price at which various types of Digital Plates are being imported from China. The manner in which the price has been arrived at Rs. 238/- is also not revealed. The applicant has not indicated their own domestic sale prices so as to reveal the extent of undercutting. However, by working out the undercutting margin indicated in the said Table, it appears that the applicant has given his domestic sale price at Rs. 214 – 203/Sq Mtr. In any case, if the price undercutting is only about 10%-15%, then there is no need to impose ADD since efficiencies of scale & fluctuation of prices of Aluminium will automatically influence the prices.
- The applicant states that the quality of goods manufactured by them are comparable to international quality standard. If there is dumping by China into India, then how the manufacturer is able to compete in the international market by exporting up to 2 Million Sq mtrs, is a question to be pondered. The export price data of the applicant

should be obtained to verify whether it is comparable with that of Chinese Import price data. If both are near matching, then there is no dumping.

- During the hearing, it was stated by DI and supported by some of the representatives of Newspaper industry that they have signed an Agreement with the Applicant for fixing the price @ LME Aluminium Price + conversion charges. It is therefore requested that if at all ADD is continued it should be based on the same formula.
- iv. M/s K&T Law offices on behalf of Kohli Graphic System has submitted the following:

After taking into account all the submissions of the major exporters/importers, KGS has arrived at the following conclusion-

- The Price, cost and inputs in the exporting country and decided on market signals without any state interference.
- The Production costs / financial situations are not distorted.
- The producer / exporter are subject to bankruptcy and property law which guarantees legal certainty and stability for operations of the firms.
- Exchange conversions are carried out at market rate.
- There has not been a fair comparison between export price and normal value.

E.3 Examination by the Authority

E.3.1 Examination of Market Economy Claims

21. Under Section 9A(1)(c), normal value in relation to an article means:

(i) the comparable price, in the ordinary course of trade, for the like article when meant for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6); or

(ii) when there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either-

(a) comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country as determined in accordance with the rules made under subsection (6); or

(b) the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6):

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

22. The Authority notes that Article 15 (a) (i) of the China's Accession Protocol requires a producer/exporter to establish its claim for market economy treatment. Para 7 and Para 8 of the Annexure I to the AD Rules also stipulates requirements for such claims.
23. On comparing the Shanghai Future Exchange ("SHFE") prices with London Metal Exchange prices on an apple to apple basis, the Authority notes that SHFE prices of Aluminium (excluding VAT) are lower than the LME prices (including relevant premium) and therefore the costs of subject goods (where Aluminium is a major raw material) from China are not representative of actual costs. Also the recent determination by US under Section 232 of the Trade Expansion Act has highlighted the prices of Aluminium in China being not representative of market forces. The Authority holds 'SHFE' prices are future prices inclusive of VAT, the comparison of which has been made on apple to apple basis with LME premium prices. The premium considered is of the relevant geographical zone i.e. Tokyo. Further as referencing to US 232 findings the Authority holds that state interference by China through export tax on raw aluminium export has spiralled an ecosystem of incentivisation for value added exports of 'Aluminium' which includes the current Product Under Investigation. 'Aluminium' is a major raw material and a state interference of this nature impacts the decision making of firms to produce value added products of Aluminium with respect to costs and prices. The Authority has therefore on the basis of comparative SHFE prices and LME prices along with facts as also contained in US 232 determination has not granted market economy status to Kodak. The verification report issued post on site verification also does not certify or accord grant of market economy status to Kodak. The Authority has therefore consider all producers/exporters of China not qualifying for market economy treatment including Kodak which has though claimed market economy treatment. The Authority has therefore evaluated the normal value for all producers/exporters on the basis of Rule 6 (8) i.e. best available information of the AD Rules which reads as "*In a case where an interested party refuses access to, or otherwise does not provide necessary information within a reasonable period, or significantly impedes the investigation, the designated authority may record its findings on the basis of the facts available to it and make such recommendations to the Central Government as it deems fit under such circumstances.*"

Accordingly the normal value for the subject goods has been constructed considering optimum consumption norms for the major raw materials and utilities, international prices of purchased raw materials, prices of captively produced raw material, including reasonable conversion cost, interest, SGA, and reasonable profit etc. The normal value for the 3 product types i.e. Thermal, violet and UV-CTC plates is constructed as *** Rs./sqm, *** Rs./sqm and *** Rs./sqm respectively.

F.3.2 Determination of Normal Value and Export Price for cooperating producers and exporters in China PR

A. M/s Kodak China Graphic Communication Co. Ltd. (“KCGCCL”), M/s Kodak China Investment Co. Ltd. (“KCIICL”) (hereinafter referred as “Kodak” group)

24. M/s Kodak China Graphic Communication Co. Ltd. (“KCGCCL”) is the producer/ exporter of subject goods. Its related company is M/s Kodak China Investment Co. Ltd. (“KCIICL”) is engaged in domestic sales in the subject country. The goods exported by KCGCCL are imported by Kodak India Pvt. Ltd. (“KIPL”) which are subsequently sold to unrelated end customers.

The Authority has undertaken onsite verification of data filed by both M/s KCGCCL and M/s KCIICL on various aspects of cost of production, domestic selling price, export price to India and other countries and adjustments claimed on export price to India.

The Producer/Exporter has claimed market economy treatment for computing ‘normal value’ on the basis of their domestic sales in China.

The Authority considered the normal value, exfactory export price and landed value as under:

(a) Normal value

During POI, KCGCCL has made entire sales in domestic market through KCIICL who has further sold subject goods to end customers in domestic market. M/s KCIICL has sold ***sqm of thermal plates in domestic market to unrelated customers at a value of *** USD at an average price of *** USD/sqm. The producer has claimed cost of production for thermal plates at *** US\$/sqm (for each subgrade) which was verified onsite. However as stated above the cost of Aluminium claimed by the producer/exporter is not reflection of true costs and hence claim of M/s Kodak for market economy treatment is not admitted. The Authority holds that ‘SHFE’ prices, the Shanghai future exchanges future prices are inclusive of VAT, the comparison of which has been made on apple to apple basis with LME premium prices. The premium considered is of the relevant geographical zone i.e. Tokyo. Further as regards US 232 findings the Authority holds that state interference through export tax on raw aluminium export has spiralled an ecosystem of incentivisation for value added exports of ‘Aluminium’ which includes the current Product Under Investigation. ‘Aluminium’ is a major raw material and a state interference of this nature impacts the decision making of firms to produce value added products of Aluminium with respect to costs and prices. The Authority has therefore on the basis of comparative SHFE prices and LME prices along with facts as also contained in US 232 determination has not granted market economy status to Kodak. The verification report issued post on site verification also does not certify or accord grant of market economy status to Kodak. The Authority therefore adopted constructed normal value on the basis of best available information as per Rule 6 (8) of AD Rules as per its consistent practice. The constructed normal value for thermal plates is considered as *** Rs./sqm.

(b) Export price

M/s KCGCCL has almost exported *** sqm of Thermal Digital Plates to M/s KIPL (related importer) at a value of *** USD/Sqm at ex-factory level. To arrive at above ex-factory export price, all post factory expenses including freight, credit cost, bank charges etc. are adjusted to an extent of ***US\$/sqm, ***US\$/sqm, ***US\$/sqm respectively.

For the purpose of weighted average CIF, the exports by KCGCCL have been compared with response filed by the importer. The weighted average CIF is ***US\$/sqm.

The total imports by the related importer i.e. KIPL during POI is reported as ***sqm at a CIF value of ***USD/sqm. M/s KIPL has sold the above imported subject goods to various unrelated customers with a markup of ***% on an average at a value of Rs ***/sqm (***US\$/sqm). All transactions by M/s KIPL to independent buyers in India are noted to be profitable.

The landed value has been computed by adding landing charges and thereafter the basic customs duty and cess as *** US\$/sqm.

Since a small consignment of 201 sqm has been identified as of violet category the ExEP, CIF and LV for this is computed as *** US\$/sqm, *** US\$/sqm and *** US\$/sqm respectively on the basis of data provided by Kodak and appropriately correlated with DG Systems.

B. M/s Lucky Huaguang Graphics Co. Ltd. ('Lucky')

Normal Value

The producer/exporter has not claimed market economy treatment and accordingly the Authority adopted the constructed normal value as per best available information in accordance with Rule 6 (8) of the AD Rules. Since the producer/exporter has claimed having exported only thermal digital plates the Authority has referenced the constructed normal value for thermal plates as *** Rs./sqm for POI, for evaluating dumping margin.

Export Price

M/s Lucky, the producer/exporter has exported *** sqm at a value of *** US\$ Thermal plates to India during POI. These subject goods have been exported to M/s Kapoor Imagings Pvt. Ltd. who have also filed importer response. The Authority had conducted an onsite verification to verify exporter's export price/quantity of subject goods. The same has also been correlated with the questionnaire response of the importer. As regards various adjustments on export price to arrive at exfactory export price, the Authority notes that as various back up evidence was not made available in the ERP system during on site verification, the Authority referenced best available information on adjustments to arrive at the exfactory export price.

The Authority has referenced ocean freight, ocean insurance, inland freight, credit cost and bank charges to an extent of ***US\$/sqm, ***% of CIF, ***% of FoB, *** days credit cost at ***% bank interest rate and ***% of FOB on the basis of data of other cooperating producers and norms as adopted consistently for such adjustments. The exfactory export

price after above adjustments comes to ***US\$/sqm and landed value as ***US\$/sqm after applying applicable landing charges and basic customs duty/cess.

C. M/s FUJIFILM Printing Plate (China) Co. Ltd. (FFPS), FUJIFILM (China) Investment Co., Ltd. (FFCN) (“Fujifilm”)

25. M/s FUJIFILM Printing Plate (China) Co. Ltd. (FFPS) (producer) and its related exporter i.e. FUJIFILM (China) Investment Co., Ltd. (FFCN) have filed exporter questionnaire response along with its related importer i.e. FUJIFILM India Private Limited (FFIPL). During the POI M/s FFCN has not exported the subject goods to India. The Authority had carried out onsite verification of the data filed by FFPS and FFCN related to global exports and domestic sales by FFCN. The producer/exporter have not claimed market economy treatment for the purpose of determining ‘normal value’ on the basis of their domestic sales.

F.3.3 Dumping Margin

26. The dumping margin for subject goods has been determined by comparing constructed normal value and net export price at ex-factory level for the subject goods. The table below shows the weighted average dumping margins for the cooperating producers/exporters of the subject country for thermal plates.

Table

Producer/Exporter	Product Type	Export Price in US\$/Sqm	Dumping Margin in US\$/Sqm	DM %	DM % in Range
Kodak (China) Graphic Communications Company Ltd. and M/s Kodak (China) Investment Co. Ltd.	Thermal	***	***	***	5 - 10
	Violet		***	***	0 - 5
M/s FUJIFILM (China) Investment Co., Ltd. and M/s Fuji Films Printing Plates (China) Co., Ltd.		No Exports			
M/s Lucky Huaguang Graphics Co Ltd	Thermal	***	***	***	(5 – 10)

G. DETERMINATION OF INJURY AND CAUSAL LINK

G.1 Views of the Domestic industry

27. As regards injury and causal link, the domestic industry has made submissions as under:

- i. Despite the levy of anti-dumping duties, imports from the Subject Country have increased substantially. Imports have increased in both, absolute terms (by 72 indexed points) and relative to production (by 45 indexed points) and consumption (by 27 indexed points) in India during the POI.
- ii. the domestic industry continues to suffer material injury on account of dumped imports and particularly due to misdeclaration of UV CtP Plates as PS Analog plates in the assessed period of investigation and injury period
- iii. Market share of the Petitioner has been declining since the base year 2013-14, the market share of imports from China PR has been increasing continuously. The market share of the Petitioner has decreased from 76% to 69% whereas, the market share of imports from the Subject Country has increased from 15% to 19%.
- iv. Imports from China PR have continued to undercut the domestic sales price of the Petitioner through much of the injury period. Although there was negative undercutting in the beginning of the injury period, the dumped imports continue to undercut prices of the Petitioner during the POI.
- v. While the cost of production has marginally declined in the POI, the landed price of imports from China PR has taken a nose-dive with a decline of 19 indexed points when compared to a decline of 2 indexed points in the cost to make and sell. Given the steep decline in import prices, the Petitioner has been forced to lower its prices which is below the MoU prices as agreed with the user industry.
- vi. the landed value of UV CtP Plates exported from China PR are so low that it does not even cover the Petitioner's cost of litho grade aluminium based on LME prices.
- vii. Due to the price undercutting and price suppression effects, the Petitioner's profitability has reduced considerably over the injury period.
- viii. During the POI, return on capital employed declined by 40 indexed points and return on capital employed per unit declined by 48 indexed points. The above financial parameters indicate that Petitioner has continued to be materially injured throughout the injury period mainly due to mis-declaration of goods and consequent evasion of anti-dumping duty.
- ix. there has been rampant mis-declaration of UV CtP Plates as PS Analog plates, i.e. the UV CtP Plates are imported into India from China PR as PS Analog Plates and thereby nullifying the protection of the anti-dumping duty on the PUC.
- x. One may achieve full capacity utilization and yet suffer losses or fall in profits as capacity utilization has no relations with injurious price effects. The imports are not coming in at fair prices which is the sole reason to petition for an imposition of anti-dumping duties.

G.2 Views of other interested parties

28. Submissions made by the other interested parties are as under:

- i. M/s Metrostar Print Solutions Pvt. Ltd. has submitted the following:
 - The printing industry is susceptible to unmitigated flow of imports across the spectrum of Printing consumables. The promoters took the risk primarily because the finished products were under anti-dumping duty and hence they would be protected from unscrupulous traders and dealers who import cheap products from China through misdeclaration and other devious means. The imports of UVCTP continues under the misdeclared route in a very big way and is severely injuring our company. Already the company is facing stiff losses on account of lower capacity utilization on account of misdeclared imports and consequent lower prices, which makes manufacturing unviable. If the support and protection given by the anti-dumping duty is withdrawn the plant will have to be closed down leading not only to job losses but also a financial burden for the promoters to repay banks who have taken exposure to the unit.
 - The data submitted by TechNova clearly shows injury during the POI. It may be noted that MPSPL currently manufactures and supplied UV CtP plates. The data and evidence presented by TechNova would show that injury in UV CtP plate is much more pronounced given the rampant mis-declaration of goods and routing of Chinese goods through other countries not subject to anti-dumping duty. On the issue of likelihood, TechNova has submitted extensive evidence showing the huge capacities available with China and their readiness to sell the PUC at cheap prices.
 - MPSPL has made huge investments on the expectation that the Hon'ble Authority would protect small manufactures like us from the onslaught of unfair trade practices of the Chinese producers. MPSPL is planning to make additional investments to the manufacture and supply other types of digital plates i.e. Thermal and Violet. If the duties are allowed to expire, Chinese manufactures will completely destroy small manufactures like MPSPL.
 - We reiterate that we are extremely vulnerable to Chinese dumping given we are a small manufacture. MPSPL is ensuring jobs to more than 80 families in the professional, skilled and semi-skilled category. Besides this the factory intends to support more than 100 different vendors for their daily requirements. If the duties are allowed to expire, it will not only fail the "Make in India" mission and loss of jobs but would also risk promoters of MPSPL defaulting on bank loans.
 - With the support of the anti-dumping duty, MPSPL will not only give quality Indian products to Indian customers but will also be encouraged to set up additional capacities to take care of enhanced demand and exports.
 - We request the Authority to recommend continuation of the anti-dumping duty and support the vision of young entrepreneurs like us who are proud to Make in India and service the local printing industry.

ii. M/s TPM Consultants on behalf of Kapoor Imagings Pvt. Ltd., Lucky Huaguang Graphics Co. Ltd. and Shangai Strong State Printing Equipment Ltd. has submitted the following:

- Imports from various other countries having volume above de-minimis level and at lower price than the subject country, such as Europe, Japan, Korea and Taiwan. However, these prices are admittedly not causing injury to them.
- Imports are almost equal to the quantum of demand supply gap in the country. Thus increases in imports and decline in market share of the domestic industry is natural
- Import price has declined in view of decline in cost of sales.
- The industry is running at optimum levels and its production, sales and capacity utilization improved over the injury period. No injury can be claimed in this regard
- The domestic industry has been earning profits throughout the period. The domestic industry has claimed that the profitability started declining in 2015-16 because of increase in imports at low price.
- The domestic industry was charging abnormally high price earlier but with the initiation of mid term review investigation initiated on 26th Sept., 2014, the petitioner entered into an MOU with the importers and consumers and had to relink their prices to raw material prices in some mutually agreed proportion. Thus the profits declined since 2015-16.
- Subject goods are incurring benchmark form of duty, thus imports cannot enter at a price below the level of benchmark fixed. Thus any alleged injury cannot be caused by the subject imports
- The raw material prices have declined which forms the major cost of production of subject goods, however, even then the cost of the domestic industry has shown an increase. The Authority is requested to kindly ascertain the reasons for increase in cost
- The NIP of the domestic industry must have significantly declined since the investigation period earlier considered by the Authority as the cost of production of the domestic industry should have declined due to increase in production and capacity utilization. However, as a worst situation, if NIP of the PUC is considered the same and is adjusted for raw material costs injury margin will be negative.
- Mere existence of injury and dumping does not lead to the conclusion that there exists likelihood of dumping and injury. It needs to be seen whether or not the injury being suffered by the domestic industry is on account of imports. If the injury is not on account of imports then certainly claim cannot be made that existence of current dumping and injury (on account of other reasons) will lead to recurrence of injury to the domestic industry

- The claim of huge capacity is not substantiated. Further huge capacity is different from freely disposable capacities. Further, as held by the Authority in past investigations, mere surplus capacity is not sufficient to establish likelihood. It should be substantiated as to why such capacity will be directed to the Indian market.
- It has been claimed that many of the users have not returned to who they had supplied earlier. It is however submitted that they have not shown whether the orders to historical customers have declined. The production and sales have increased.
- The article submitted on decline in demand shows that the demand started declining since 2012. However, imports have not shown significant increase since then. The imports equals to the demand supply gap in the nation.
- If import of Violet and Thermal printing plates from the EU were coming virtually at the same prices as China PR price then the remedy cannot be extension of antidumping duty on imports from China.
- As regards the claim that Kodak started dumping which attracts NIL duty, it is submitted that the domestic industry should have sought mid-term review investigation to address this, however, no efforts were made by the domestic industry in this context
- The imports are to the extent of demand supply gap prevalent in the country. Even if it is to assume that the claims of the domestic industry about new producers coming up is true, then it appears that the domestic industry has taken away the share of other new producers as the estimation of other producers sales have been 0.61 million sqm throughout the injury period.
- The domestic industry does not have sufficient capacity to meet the domestic demand and thus the decline in market share is natural. Rise in market share of imports can be directly attributed to the demand-supply gap in the Country.
- The domestic industry has been earning profits throughout the period. Further, as stated earlier, imports are not the cause of decline in profit. Any other factor that has led to decline in profitability should not be attributed to imports. More importantly, subject goods are attracting benchmark form of duty. Thus imports cannot enter at a price below the level of benchmark fixed.
- The NIP of the domestic industry must have significantly declined since the investigation period earlier considered by the Designated Authority as the cost of production of the domestic industry should have declined due to increase in production and capacity utilization and decline in the raw material prices. Thus the injury margin and injury margin would be negative.
- Any reliance to the findings issued by the Brazilian and Korean Authority is misplaced as the findings pertain to PS plate and not Digital Plates. Mere surplus capacity is not sufficient to establish likelihood. It should be substantiated as to why such capacity will be directed to the Indian market.

iii. M/s APJ-SLG Law offices on behalf of M/s FUJIFILM Printing Plate (China) Co. Ltd. (FFPS), FUJIFILM (China) Investment Co., Ltd. (FFCN) and M/s FUJIFILM India Private Limited (FFIPL) has submitted the following:

- The Domestic Industry has shown tremendous improvement with regard to almost all the injury parameters. The absence of existence of current injury is a robust indicator that the injury is not likely to recur particularly when the prices offered by the Domestic Industry are nowhere close to the reference prices so fixed by the Authority.
- As regards the claim of huge idle capacities in China, it may be mentioned here that the domestic industry has failed to provide any evidence in this regard. It is the settled law that any claim as to the injury must be based on material evidences and not merely on allegation, conjecture or remote possibility. The domestic industry has clearly failed to fulfill their obligation under law to substantiate their claims as to the injury. In any case, existence of spare capacity cannot *per se* lead to conclusion of likelihood of injury.
- Unsubstantiated and hollow claims have been made with regard to the lost orders by the domestic industry. The petition of the domestic industry clearly reveals a starkly contradictory situation. As against the hollow claims of lost orders by the domestic industry, the production, sales and capacity utilization of the domestic industry has increased substantially. Even if such fictitious and baseless claim is assumed to be true, it is beyond our understanding that how the Domestic Industry would have supplied to the said orders when they have already achieved the peak of their production, capacity utilization and sales.
- Regarding the claim of the domestic industry that Brazil has extended the duties on the exports of subject goods from China, it is submitted that the duties in any other country do not have any effect on the exports of China in Indian market. It has been clearly demonstrated above that despite the existing reference price duty, the domestic industry in the Indian market sells the subject goods in the same vicinity as of the prices offered by the Chinese producers. There is virtually no difference between the imported price and the domestic prices.
- As regards the claim of declining demand in China, we respectfully submit that there is no reliable basis to make such a claim. The report which has been relied upon is in the context of newsprint and not the subject goods. There is not even a whisper about the likely demand for the subject goods. Further, the data submitted by us, which has been duly verified by the Authority, clearly establishes that there has been increase in our domestic sales in China. In our understanding, the same is the case with other Chinese producers as well which can only be on account of increased domestic demand of the subject goods in China.
- The decline in the landed value of the imports cannot be seen in isolation unless the cost factors are also simultaneously examined. The fall in landed value is almost wholly on account of steep decline in aluminium prices - the major raw material for

the product under consideration. The same could also be ascertained from the fact that there is a decline in the selling prices of the Domestic Industry as well.

- There is a fall of around 25% in the aluminium prices when we compare the prevailing prices during the period of investigation in original investigation to the prevailing prices during the period of investigation during the current investigations. It is a matter of record that the primary raw material used in the manufacturing of the product under consideration is aluminium and it comprises of around 70% of the total cost of the product under consideration.
 - Despite the low prices offered by the domestic industry during this period, the profitability of Technova increased significantly to Rs. 4600 lacs in FY-2015-16 from Rs. 1997 lacs in FY-2010 which is a whopping increase of 130%. This rise in the profitability is evident of the fact that the domestic industry chose to sell the subject goods at lower prices but increased their overall profitability by capturing the market share to the full extent of their own capacity.
 - It is apparent that injury, if any, has been caused solely on account of other reasons and any injury on account of other reasons should not be permitted to be attributed to imports from subject country. Imports from China PR did not create any adverse effect on volume or the price parameters of the DI. In any case causal link needs to be seen in view of the fact that the Non-PUC and Exports sales of the domestic industry has fallen down drastically in the injury period and any injury to the domestic industry is on account of the same.
- iv. M/s Dua Associates on behalf of M/s Kodak China Graphic Communication Co. Ltd. (“KCGCCL”), M/s Kodak China Investment Co. Ltd. (“KCICL”) and M/s Kodak India Pvt. Ltd. (“KIPL”) has submitted the following:
- Negative price undercutting - Exports by Kodak from China PR to India has not adversely impacted the prices of the domestic industry. Moreover, the landed value of goods exported by KCGCCL has remained above the sales price of Technova throughout the POI.

Particulars	Source	2014-15	2015-16	POI
Landed Value of PUC from China PR	NCV Application	272	252	238
Price undercutting range	NCV Application	0-5%	5-10%	10-15%
Domestic sales price at the highest range	<i>Derived</i>	286	277	274
CIF value of goods exported by KCGCCL	KIPL response (Annexure 2)	***	***	***
Landed value of goods exported by KCGCCL	KIPL response (Annexure 1&2) KIPL assessable	***	***	***

value +BCD				
Price undercutting		Negative	Negative	Negative

- Negative Price underselling: The landed value of goods exported by Kodak is above the NIP claimed by TechNova and there is negative price underselling.

Particulars	Source	2014-15	2015-16	POI
Landed Value of PUC from China PR	NCV Application	272	252	238
NIP injury margin	NCV Application	-	-	15-25%
Estimated NIP at highest margin	<i>Derived</i>	-	-	285
Landed value of goods exported by KCGCCL	KIPL response (Annexure 1&2) KIPL assessable value +BCD	***	***	***
Price undercutting		-	-	Negative

- Price Suppression / Depression – There is no price suppression of depression caused by exports from Kodak to India. The same can be appropriately derived from the Kodak’s landed value when compared with the cost to make and sell of Technova.
- The volume of exports by Kodak has remained almost constant during the entire injury examination period. Therefore, there is no surge of imports qua Kodak which may have caused any injury to the domestic industry.

Particulars	Unit	2014-15	2015-16	POI
Imports from China PR	Million Sqm.	5.6	7.73	7.3
Trend	Indexed	100	138	130
Export from Kodak	Million Sqm.	***	***	***
Trend	Indexed	100	112	108
Domestic Sales	Million Sqm	23.6	24.9	26.6
Trend	Indexed	100	106	113
Kodak export volume relative to Technova domestic sales	% Range	10 - 20	10 - 20	10 - 20

- Negative volume injury: There is no volume injury to domestic industry on account of subject imports or imports from Kodak. During the injury POI, TechNova has reached the level of optimum capacity utilisation and there is no further scope for increasing market share. Even otherwise, the market share of domestic industry is displaying a positive trend.

Particulars	Unit	2014-15	2015-16	POI
Demand/Consumption	Million Sqm.	32.3	36.2	37.9
Trend	Indexed	100	112	117
Export from Kodak	Million Sqm.	***	***	***
Trend	Indexed	100	112	108
Domestic Sales	Million Sqm	23.6	24.9	26.6
Trend	Indexed	100	106	113
Kodak exports relative to demand	% range	10 - 20	10 - 20	10 - 20

- No surge in exports from Kodak: The percentage share of exports of subject goods by Kodak has significantly reduced in relation to the demand during the POI. Therefore, it is submitted that the exports by Kodak has no impact on the market share of the domestic industry. Further, Kodak does not possess unutilized production capacity and there are no plans for enhancement of product capacity. In the light of the above, there is no likelihood of surge in export volume from Kodak.

Particulars	Unit	2014-15	2015-16	POI
Exports by Kodak	Million Sqm.	***	***	***
Trend	Indexed	100	112	108
Domestic Production	Million Sqm.	29.94	27.34	28.53
Trend	Indexed	100	110	114
Kodak export relative to domestic production	% Range	10 - 20	10 - 20	10 - 20

- Demand supply Gap: TechNova has achieved production at optimum levels. The importers/users are bound to import subject goods on account of huge demand supply gaps:

Particulars	Unit	2013-14	2014-15	2015-16	POI
Technova Capacity	Million Sqm.	34.77	34.77	34.77	34.77
Domestic Production	Million Sqm.	23.88	24.94	27.34	28.53
Capacity utilization Total	%	95	95	97	94
Demand	Million Sqm.	28.47	32.27	36.24	37.91

- No likelihood of fall in export price to India: A perusal of Kodak export price reflects that price of subject goods to third countries (except India) is on the higher side with reference to export price to India. Accordingly, there is no possibility or rationale for Kodak to sell subject goods to India at a lower price.

S.No	Export Price (USD)	ELEC XD	AEM	SW	CAP GT	Sonora	TNG
1.	India	***	***	***	***	***	***
2.	Third Country	***	***	***	***	***	***

- Chinese market reflects a steady demand for goods produced by Kodak: Kodak has seen no decline in the domestic sales of subject goods during the entire injury examination period.

S.No	Year	Kodak Sales in China PR (Value in USD)
1.	FY 2015	***
2.	FY 2016	***
3.	POI	***

- Breakdown of volume and value of import on sub-category basis: In the original investigation, the Authority had classified subject goods into three sub-categories namely Thermal, Violet and CtCP. However, the Applicant in present investigation has not furnished a breakdown of the volume and value of imports under each of three sub-categories. In view of the same, the Domestic Industry has failed to provide a reasonable understanding of the submissions /claims. It is also necessary to note that the determination of volume and value of imports on sub-category basis is required to determine that the injury is being suffered on account of subject imports and not on account of non-subject imports. In any event, it is submitted that Kodak has only imported Thermal plates during the POI and not violet or CtCp.
- Mis-declaration: It is pertinent to note that the Applicant has admitted mis-declaration as a cause of injury. More specifically, TechNova has submitted that *“the Petitioner has been unable to derive the full benefit of the MoU given that the rampant mis-declaration of the UV CtP Plates and as also change in the country of origin by one of the exporter – Fujifilm, who until recently was selling Violet and Thermal printing plates from the EU at virtually the same prices as China PR.”* It is therefore evident that the Applicant is also suffering injury on account of mis-declaration of CtCP plates when imported into India by other exporters. It is reiterated that Kodak does not export CtCP plates into India.
- Other country imports: Import volume and value of the PUC from non-subject countries as submitted by the Applicant also suggest that import from non-subject countries is taking place at a price which is almost 20-40 percent lower than the price from China. It is also evident that non-subject countries (collectively from Malaysia, Taiwan, and Korea) are exporting goods in the Indian market at substantially low prices. Moreover, the trend analysis of the import volume and value from Malaysia, Taiwan, and Korea, during the injury POI reflects that subject

imports from non-subject countries has risen sharply and also remained above the de-minimums level.

- In line with the original investigation, the Authority is requested to compute NIP for subject goods (after due adjustment/deduction on account of pre-press chemicals) so as to arrive at dumping and injury determination at the same level of trade. The Authority is also requested to arrive at NIP computations after excluding expenses incurred on account of post-manufacturing expenses such as commission, discount, freight outward, research and development, post-sales services/technical support for subject goods, as well as other expenses incurred on non-subject goods.
 - Kodak's export price of subject goods is in line with change in raw material prices. It is also pertinent to note that Kodak's export price during the original investigation was INR ***/sqm and the landed value during period of review is INR ***/sqm. The said miniscule difference is only on account of exchange rate. Furthermore, KIPL's selling price to unrelated customers is above the selling price of TechNova. Therefore, the injury to TechNova is not on account of imports from Kodak.
- v. M/s Orion Photosensitive Systems has submitted the following:
- We have been facing immense financial strains on account of the rampant dumping of the Digital Offset Plates particularly of the category of plates produced by us from the subject country. Due to the dumped prices some of our customers force us to compete with the Chinese import prices which do not even allow us to make a reasonable margin. Further, there have been instances where we have found that the Chinese supplier and some of the unscrupulous importers have been conniving by misdeclaring UV (CtCP) plates to avoid anti-dumping duties which are in force. We request the authority to seek further information from the customs and DRI Authorities to substantiate the same. Both these issues clearly do not allow us to grow and have sustainable business under the Make in India plan announced by the Government.
 - We believe that in case the current Anti-dumping duties get withdrawn, there will be a huge influx of cheap Chinese Digital Offset Printing Plates into the country which will virtually wipe out the domestic industry.
 - If the existing duties are removed then the end of Domestic Manufacturers engaged in production of Digital Plates will be imminent.
 - 1) The Capital Invested,
 - 2) Pains and Efforts taken to develop these New Technologies,
 - 3) Jobs of workers,
 - 4) Outstanding loans of Banks, all these will be lost forever.

- Destruction of Domestic Manufacturers will seriously damage local Printing Industry as then the Indian Printing Industry will be at the Mercy of Digital Plates Imported from China.
- vi. M/s Nippon Color has submitted the following:
- The applicant has no data about other manufacturers in India. He makes an estimate of 0.60 M Sq Mtr without any knowledge of the same. Being in the same industry, the applicant ought to have some data of the competitors and co-manufacturers. Hence the same ought not to be accepted.
 - The applicant has in his data indicated that there is a 19% increase in the sales of the applicant and as pointed out by one of the exporting parties, there is almost 97% capacity utilization. If there is such a high capacity utilization, then there is no question of dumping. In the absence of Balance Sheet data, it is also not possible to verify whether there has been a Capital Expansion during the period and hence it is requested that the same may be got verified.
 - The total imports from China are less than 25% of the production of the applicant, but the manner in which the same has been arrived at & for which type of plate is not known since the DGCIS Raw Data is not supplied to us and hence the allegation that there is continued dumping is far-fetched and improper.
 - The applicant has worked out the total sale of the product without detailing as to the type of plate and its thickness. Without such proper data supply, the application itself is defective and merits rejection. The import data from other countries has not been backed by data from the DGCIS nor the same has been shared with other Interested Parties.
 - We had provided Invoices of sale of the goods of the applicant in the local market, which clearly showed that the applicant himself was selling the goods at Rs. 230/Sq Mtrs while the ADD was to the extent of Rs. 350/- indicating that the real price of the goods is about Rs. 230/Sq mtr and hence the ADD imposed is improper.
 - The table on price depression has not been backed by any empirical data as to the domestic sales price by the applicant. The data ought to have been backed by actual sale price data for each type of the Digital Plate, thickness wise being manufactured by the applicant.
 - The Table on Price Suppression does not indicate as to how the cost of manufacture for each type of Digital plate viz., CTCP, Thermal & Violet, thickness wise has been arrived at. The whole data is shown to be confidential and hence it is not possible to comment on the correctness of the data supplied by the DI to the DGAD.
 - The whole row on indexed change in cost on YOY basis seems to be incorrect. The calculation appears incorrect viz., $100 - 24 = (264)$

- Whereas the cost is said to have changed from 101 – 101 – 98. Similarly, the index change in sale on YOY basis also seems to be incorrect. The calculation appears incorrect viz., 100 - (129) – (184) whereas the sale is said to have changed from 102 – 99 – 96. Even in the price suppression, the figure of 450 seems incorrect. In view of the same, the whole table appears to have been wrongly calculated/projected and hence the application merits rejection.
 - The conclusion drawn that there is 15% increase from China appears incorrect since there is actually a fall in the imports from 21% to 19% in the POR & not increase of 15%.
- vii. M/s K&T Law offices on behalf of Kohli Graphics System has submitted the following:
- The increase in the import of the subject goods in domestic market even after imposition of ADD, in our view is not because that the domestic market is dumped unlawfully ;and unfairly with the subject good from the subject country but because they can't cater to the capacity requirements/growing need of the domestic market. Thus, the domestic market is compelled to fulfil its growing requirements/needs by importing the subject goods in India from the subject country even after paying exorbitant and excess duty by way of ADD.
 - The Authority in the interest of domestic market should consider whether there has been a significant increase in the dumped imports either in absolute terms or relative in production or consumption in India but such a defense will not hold good if the imports are meeting the capacity requirements/ domestic demands of the country/domestic market as opposed to the imported goods being cheaper.
 - In a scenario where the domestic industry is unable to fulfil the domestic demand, any imposition of ADD will be completely unjustified as the domestic demand holds sacrosanct before the protection of the monopolistic design and aspirations of a domestic industry.
 - There has been a marked change in circumstances since imposition of ADD in 2012 and the same and their consequence have been enumerated herewith for convenience
 - Despite the imposition of ADD, there is no price of volume injury to the domestic market. In fact there is a 4 index points decrease in value of imports for Kodak & 7 index points increase for the domestic industry.
 - When Duty was imposed upon the subject good, the price of Aluminum was \$2,200 per tonne which have now come down to \$1,700 per tonne which is almost a 40% decline in prices.
 - Technova has not been able to provide any proof of whether they can go beyond 97% capacity to meet the increasing demand of the Indian/domestic markets.

- That the domestic value of prices in Korea and other countries were much lower than that of China.
- The domestic producer is conveniently silent on the prices of goods imported by them from other countries. The values that have been provided by the domestic producer i.e. the GCNS values were in \$ which is questionable.
- That the ADD being charged presently is very high as the international price of the subject good is between \$ 2 1/1- \$3 and thus, there is no logical reasoning behind having such a high ADD especially when it's an admitted fact that despite there being ADD upon the subject goods, the share of the subject goods imported in the domestic market is on rise as there is a gap between the domestic demand visa-viz the production made by the domestic industry.
- That the fact that China now being no longer a Non Market Economy as the WTO Protocol declaring China a Non Market economy has expired with efflux of time and that has to be able be taken into Account.
- That Technova being the only player in the market accounting for 97% of the domestic production and vide present SSR it wants to ensure that the ADD stays as the same helps it to continue with its monopolistic designs.
- The prices of Digital Plates imported in India are the lowest in the world.
- They stated that as per providing volumes in the market, Technova stands comfortably above the rest by providing 24-25 million sq. mtrs. Of the subject good which accounts for 70% of the market. The other manufacturers provide about 0.5 million sq. mtrs. Of the subject good which accounts for about 1% of the market. The import from the subject country is around 7.5 million sq. mtrs. Which is about 21% of the market and import from other nations is around 3 million sq. mtrs. Which accounts for around 8% of the entire market.
- They state in the while Technova is comfortably the leading producer of the subject good in India, since the imposition of ADD, three new players i.e. Akshay Imaging, Metrostar and Kapoor Imaging have also come into the market.
- The fact that China admittedly still accounts for around 21% imports of the total 30% imports in domestic market herein in India is a clear indicator that Technova despite claiming to produce at 97% capacity and the other domestic manufactures constituting a miniscule minority can still hardly fulfil the massive demand of the subject good in India. Lastly, despite the so called new players emerging in the domestic, they, on face of it, still only constitute not more than even 1% of the entire production by the domestic industry which speaks volume in itself.
- There is no Causal Link between the alleged injury claimed to be caused to the domestic industry visa-viz the facts revealed by the exporters stating that no subsidy is being provided to the domestic industry in China for making subject goods available for its export to India has to be considered by the Authority.

G.3 Examination by the Authority

29. The Authority has taken note of the submissions made by various interested parties and domestic industry with regard to the injury in accordance with the Antidumping Rules.
30. The Authority notes that the price according to MOU during POI is higher than the net sales realisation (NSR) attained by DI for all the 3 types of digital plates. In case of Thermal and violet product types the 'NSR' in POI is higher than the 'NIP' determined for these 2 product types during POI which therefore does not indicate any price depression. Further, the injury margin for 'Thermal' digital plates during POI is noted to be negative. The violet plates are not imported during POI. The ones claimed as violet plates by DI to an extent of 22098 sqm in DGCIS data were mainly thermal plates as verified by the Authority but one of the consignment of 201 sqm only is of violet category when verified through DG Systems data and the corresponding invoice/evidence obtained from M/s Kodak.
31. The Authority also notes that price of these two product types remained immune from the exports by Kodak which did not have an AD measure and that Fujifilm also supplied both Thermal and Violet types from their other production plants in EU and Japan. However in case of UV-CTCP the 'NSR' achieved by DI during POI remained suppressed below the NIP with Injury Margin also being positive.
32. The Authority also notes that domestic industry has realised domestic prices of Thermal and violet during POI which do not indicate any price suppression. The ongoing imports of subject goods from the subject country and imports of subject goods from non-subject country have not led to a price suppression for Domestic industry for the 2 product types i.e. violet and thermal during POI. Also no misdeclaration for these 2 product types have been reported or claimed by Domestic Industry.
33. The Authority notes that price of any product in a country is established by various competitive sources be it dumped or non-dumped. Further in event of a dumped source being subjected to an AD measure, the customers in a country may shift to other sources viz. domestic or other sources without an AD measure. In the instant case, the landed values of subject goods from non-dumped sources during POI and post POI have been considered to establish possibility of any likelihood of injury by analysing price suppression effect on DI's prices during POI and post POI keeping in view the prices of subject goods from non-dumped sources, prices from subject country of producers/exporters not subjected to an AD measure and likely adverse effect of misdeclaration of product types on sales of domestic industry (both quantum and value).
34. The Authority notes that during the POI imports of product types i.e. CTCP, Thermal and a miniscule quantity of violet plates have taken place. DI has claimed that imports of violet digital plates as well of a small quantity from China. However the Authority after verifying the data filed by the cooperating producers/exporters i.e. M/s Kodak and DG Systems notes that the product type violet is in fact imported only to a quantity of *** sqm. Hence the imports of subject goods during POI have been largely of only 2 types i.e. Thermal and UV-CTCP plates.

35. For the examination of the impact of the imports on the domestic industry in India, the Authority has considered relevant economic factors and indices having a bearing on the state of the industry such as production, capacity utilization, sales quantum, stock, profitability, net sales realization, the magnitude and margin of dumping etc. in accordance with Annexure II(iv) of the Rules. The Authority notes as under:

G.3.1 Volume Effect of dumped imports and impact on domestic industry

A. Demand and Market Share

36. The demand or consumption of the product in India is the sum of domestic sales of all the Indian producers and imports from all sources as assessed in the table below.

Particulars	Unit	2013-14	2014-15	2015-16	2016-17 POI
Sales of Domestic Industry	Sqm	21,451,992	23,610,884	24,913,963	26,603,132
Sales of Other Indian Producers	Sqm	539,076	568,037	546,798	559,514
Imports from the Subject country	Sqm	4,245,703	5,467,025	7,611,422	7,319,298
Imports from other Countries	Sqm	2,144,859	2,492,027	5,037,583	4,102,556
Demand/consumption	Sqm	28,381,630	32,137,973	38,109,765	38,584,500
Market share in demand					
Domestic Industry	%	76	73	65	69
Other Indian Producers	%	2	2	1	1
Subject country	%	15	17	20	19
Other Countries	%	8	8	13	11
Demand/consumption	%	100	100	100	100

37. The Authority notes that the demand for the product under consideration has increased throughout the injury period. The share of imports from the subject country in domestic demand/consumption has also increased. The share of the domestic industry in demand has, on the other hand, declined as compared to base year. However as capacity utilization of Domestic Industry has been of 95% plus level, the fall in market share needs to be appreciated in context of capacity constraint as well and not as an adverse impact of dumping.

B. Import volumes and share of subject country

38. With regard to volume of the dumped imports, the Authority is required to consider whether

there has been a significant increase in dumped imports either in absolute terms or relative to production or consumption in India. The volume of imports of the subject goods from the subject country have been analyzed as under:

Import Volume	Unit	2013-14	2014-15	2015-16	2016-17 POI
China PR	Sqm	4,245,703	5,467,025	7,611,422	7,319,298
Other Countries	Sqm	2,144,859	2,492,027	5,037,583	4,102,556
Total Imports	Sqm	6,390,562	7,959,052	12,649,004	11,421,854
Market Share in Imports					
Subject country	%	66	69	60	64
Others	%	34	31	40	36
Total Imports	%	100	100	100	100
Indian Production	Sqm	24,476,404	25,539,456	27,938,007	29,128,095
Demand	Sqm	28,381,630	32,137,973	38,109,765	38,584,500
Imports from the subject country in relation to-					
Indian Production	%	17%	21%	27%	25%
Consumption	%	15%	17%	20%	19%

39. It is noted that the import volume from the subject country has increased over the injury period in absolute terms, except for a slight decline in the POI. Imports from other countries have also increased. The volume of imports from the subject country both as a proportion of consumption and production has also increased in the injury period, except for a slight decline in the POI. The imports quantum has been considered on the basis of DGCIS data with appropriate consideration of UV-CTCP plates being misdeclared as Analog plates. This has been validated with the description considered as a misdeclaration by the Custom Authority for considering UV-CTCP plates as analog.

F.3.2 Price Effect of dumped imports and impact on domestic industry

40. With regard to the effect of the dumped imports on prices, it is required to be analyzed whether there has been a significant price undercutting by the alleged dumped imports as compared to the price of the like products in India, or whether the effect of such imports is otherwise to depress prices or prevent price increases, which otherwise would have occurred in normal course. The impact on the prices of the domestic industry on account of the dumped imports from the subject country has been examined with reference to the price undercutting, price underselling, price suppression and depression. For the purpose of this analysis the cost of production, Net Sales Realization (NSR) and the Non-injurious Price (NIP) of the Domestic industry have been compared with the landed cost of imports from the subject country as under:

Price suppression and depression effects of the dumped imports

41. In order to determine whether the dumped imports are suppressing or depressing the domestic prices and whether the effect of such imports is to suppress prices to a significant degree or prevent price increases which otherwise would have occurred to a significant degree, the Authority considered the changes in the costs and prices over the injury period. The position is shown as per the table below:

Particulars	Unit	2013-14	2014-15	2015-16	2016-17 POI
Cost of Sales	Rs/sqm	***	***	***	***
<i>Trend</i>	Index	100	101	101	98
Selling Price	Rs/sqm	***	***	***	***
<i>Trend</i>	Index	100	102	99	96
Landed Price	Rs/sqm	295	275	254	237
<i>Trend</i>	Index	100	93	86	81

The selling price have been above the landed price and also the cost of sales indicating no price suppression.

42. The Authority has carried out the analysis of price undercutting and price underselling for 3 product types separately.

a) Price Undercutting and Price Underselling

43. Price undercutting has been determined by comparing the landed price of imports from the subject countries with the net sales realisation of the domestic industry in India. The Authority has also examined price underselling suffered by the domestic industry on account of dumped imports from the subject country.

Particulars	Unit	2016-17 POI		
		CtCp	Thermal	Violet
Landed price of imports	Rs/sqm	167	282.5	-
NSR achieved	Rs/ sqm	***	***	***
MOU determined price	Rs/ sqm	***	***	***
Non Injurious Price	Rs/ sqm	***	***	***
Price Undercutting (Range)	Rs/ sqm	30 - 40	0 to (10)	-
Price Underselling (Range)	Rs/ sqm	50 - 60	(15 to 25)	-

The small quantity of violet plates imported during POI have been considered in above analysis. The Authority notes that both price undercutting and underselling of Thermal and Violet plates are negative.

F.3.3 Examination of Economic Parameters relating to Domestic Industry

44. Annexure II to the AD Rules requires that the determination of injury shall involve an objective examination of the consequent impact of these imports on domestic producers of such products. With regard to consequent impact of these imports on domestic producers of such products, the AD Rules further provide that the examination of the impact of the dumped imports on the domestic industry should include an objective and unbiased evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments.
45. Accordingly, various economic parameters of the domestic industry are analysed herein below:

A) Actual and potential impact on Production, Capacity, Capacity utilization and Sales

The performance of the domestic industry with regard to production, capacity, capacity utilization and sales are as follows:

Particulars	Unit	2013-14	2014-15	2015-16	2016-17 POI
Capacity	Sqm	3,47,70,000	3,47,70,000	3,47,70,000	3,47,70,000
Indexed		100	100	100	100
Production (PUC + NON PUC)	Sqm	***	***	***	***
Indexed		100	100	102	101
Production - PUC	Sqm	23,876,404	24,939,456	27,338,007	28,528,095
Indexed		100	104	114	119
Capacity Utilization (PUC+Non-PUC)	%	***	***	***	***
Indexed		100	100	102	101
Sales – domestic	Sqm	2,14,51,992	2,36,10,884	2,49,13,963	2,66,03,132
Indexed		100	110	116	124
Demand/consumption	Sqm	2,83,81,630	3,21,37,973	3,81,09,765	3,85,84,500
Indexed		100	113	134	136

46. The Authority notes that domestic industry has utilized its capacity at a significantly high level over the injury period. Production, capacity utilization and domestic sales volume the DI increased over the injury period.

B) Market Share in demand

47. The effects of the dumped imports on the market share of the domestic industry have been examined as below. It is noted that the market share of the domestic industry has declined throughout the injury period, and the market share of the Other Indian Producers has remained at a very marginal level. Market share of imports from China PR have increased throughout the injury period. Market share of imports from other countries have remained at the same level and is less than 10% throughout the injury period.

Particulars	Unit	2013-14	2014-15	2015-16	2016-17 POI
Domestic Industry	%	76	73	65	69
Other Indian Producers	%	2	2	1	1
Subject country	%	15	17	20	19
Other Countries	%	8	8	13	11
Demand/consumption	%	28,381,630	32,137,973	38,109,765	38,584,500

The decline in DI's share during POI is not an indicator of adverse impact of dumped imports but the capacity constraints of DI in view of increasing demand.

C) Inventories

48. The Authority notes that the average inventory levels of the domestic industry have increased in the injury period, both in absolute terms and as a proportion of the domestic industry's total sales. . The rise in inventory is not that significant to consider it as an indicator of injury to the Domestic Industry.

Particulars	UOM	2013-14	2014-15	2015-16	2016-17 POI
Average Stock	Sqm	***	***	***	***
Indexed		100	84	110	129
Total sales of the domestic industry		23,493,354	25,083,738	26,498,569	28,131,448
Inventory as a proportion of total sales of the domestic industry	%	10	8	10	11
Indexed		100	78	98	108

D) Profits, return on investment and cash flow

49. Performance of the domestic industry with regard to profit, return on investment and cash flow is as follows:

Particulars	Unit	2013-14	2014-15	2015-16	2016-17 POI
Profit/(Loss) per unit	Rs./Sqm	***	***	***	***
	Indexed	100	116	64	62
Profit/(Loss) – total	Rs. Lakhs	***	***	***	***
	Indexed	100	127	74	77
Cash profits	Rs. Lakhs	***	***	***	***
Cash profits (Rs. Lakhs)	Indexed	100	113	76	74
Profit before Interest and Tax	Rs. Lakhs	***	***	***	***
	Indexed	100	107	74	65
Return on Capital Employed	%	***	***	***	***
	Indexed	100	92	67	60

50. After an increase from the base year to the subsequent year, the domestic industry's economic performance based on the above parameters has declined. However the Authority has analysed whether the 'NSR' has been suppressed when compared to 'NIP' determined for POI. The profitability and cash profits have though reduced but the industry cannot be qualified to have suffered losses due to dumping as 'NSR' of the industry is above NIP and therefore these parameters do not imply injury to Domestic Industry.

E) Employment and Productivity

51. It is noted from the table below that the employment has remained at the same level with only a marginal increase over the injury period.

Particulars	Unit	2013-14	2014-15	2015-16	2016-17 POI
Employment	Nos	***	***	***	***
Trend	Indexed	100	102	102	103
Productivity	Nos	***	***	***	***
Trend	Indexed	100	102	112	116

Both employment and productivity indices are noted to be stable and healthy.

F) Growth

52. The table below shows that the domestic industry has registered positive growth for both production and sales. However, other parameters such as capacity utilization, profitability and return on investment have shown slight decline in growth terms which when seen in context of absolute numbers and the ‘NIP’ determined for industry and NSR attained, do not conclude any injury.

Particulars	Unit	2013-14	2014-15	2015-16	2016-17 POI
Production	%	-	4%	10%	4%
Domestic Sale	%	-	10%	6%	7%
Capacity utilization	%	-	0%	3%	-1%
Profit/(Loss) per unit	%	-	16%	-45%	-3%
Return on investment	%	-	-8%	-27%	-11%

G) Ability to raise Capital Investment

53. No submissions have been made by any of the interested parties concerning the domestic industry’s ability to raise capital investments. The Authority in view of various well doing parameters hold that the industry is not impaired on this in view of its economic condition.

H) Level of dumping & dumping margin (DM)

54. The Authority has evaluated specific DM’s for cooperating exporters and also for residual category to the extent considered appropriate in the factual matrix of this case. In this regard the Authority holds that in the present scenario, as the parameters of injury evaluated for DI are not found to be supportive of continuance of Anti-Dumping Duty as also detailed in later paras, the evaluation of dumping margin and injury margin for residual category producers/exporters seems unwarranted. Nevertheless, the Authority has evaluated dumping margin/injury margin for such category on the basis of DGCI&S data and least price transaction as per cooperating producer/exporter data as available for exported types of PUC. The same is summarized below.

	DM (Rs./Sqm.)	DM% (Rs./Sqm.)	DM% Range	IM (Rs./Sqm.)	IM% (Rs./Sqm.)	IM% Range
UVctP (for all producers/exporters including	***	***	50 - 60	***	***	30 - 40

cooperative)						
Thermal (for residual category)	***	***	50 - 60	***	***	20 - 30
Violet (for residual category)	***	***	0 - 10	***	***	(0 – 10)

I) Factors affecting domestic Prices

55. The Authority has evaluated domestic prices levels due to imports from subject country and non subject countries, and also impact of MOU signed by DI with user association in realization of prices in domestic market.

K) Magnitude of Injury and Injury Margin

56. The non-injurious price of the subject goods produced by the domestic industry as determined by the Authority in terms of Annexure III to the AD Rules has been compared with the landed value of the imports from the subject country for determination of injury margin during the POI and the injury margin so worked out is as under:

(Thermal Plates)

Producer/Exporter	Plate Type	Landed Value in US\$/sqm	NIP in US\$/sqm	IM US\$/sqm	IM%	IM % (Range)
Kodak	Thermal	***	***	***	***	(0-10)
	Violet*	***	***	***	***	(0-10)
Lucky	Thermal	***	***	***	***	(20-30)

*included in response to post disclosure comments/data/analysis

J) Other Known Factors & Causal Link

57. Having examined the volume and price effects of dumped imports on the prices of the domestic industry, in terms of its price undercutting and price suppression and depression effects, other indicative parameters listed under the Indian Rules and Agreement on Anti-Dumping have been examined by the Authority to see whether any other factor, other than the dumped imports could have contributed to injury to the domestic industry, as follows

a) Volume and prices of imports from third countries:

58. The Authority notes that imports from the subject country have increased. However, the volume of imports from the other countries as a share of total imports into India has

remained at almost the same level throughout the injury period. Also the volume of imports from the other countries as a share of the overall demand in India has remained at the same level throughout the injury period and is less than 15%.

Particulars of Other Countries	Unit	2013-14	2014-15	2015-16	2016-17 POI
Market Share	%	8	8	13	11
Import Volume	Sqm	2,144,859	2,492,027	5,037,583	4,102,556
Market Share in Imports	%	34%	31%	40%	36%

b) Change in demand

59. There has been rise in demand of the product concerned over the injury period. Therefore this parameter is not a cause of injury to the DI.

Particulars	Unit	2013-14	2014-15	2015-16	2016-17 POI
Domestic Industry	%	75.58	73.47	65.37	68.95
Other Indian Producers	%	1.90	1.77	1.43	1.45
Subject country	%	14.96	17.01	19.97	18.97
Other Countries	%	7.56	7.75	13.22	10.63
Demand	Sqm	28,381,630	32,137,973	38,109,765	38,584,500

The table above shows the total demand of the subject goods in India. Demand for the subject goods has increased. Market share of imports from China PR has decreased in the injury period while the domestic industry has also lost its market share in the POI. The Other Producers market share has also reduced in the POI.

c) Developments in technology

60. Technology for production of the product concerned has not undergone any change. Thus, developments in technology cannot be regarded as a factor causing injury to the domestic injury.

d) Conditions of competition and trade restrictive practices

61. There is no trade restrictive practice, which could have contributed to the injury to the Domestic Industry.

e) Export performance of the domestic industry

62. The Authority notes that DI has exported all 3 product types at an average FOB (USD/sqm) of 2.905, 3.992 and 4.359 for UV-CTCP, Thermal and Violet respectively. The export performance of the domestic industry is as under:

Particulars	Unit	2013-14	2014-15	2015-16	2016-17 POI
Domestic Industry's Export Sales	Sqm	***	***	***	***
Indexed		100	72	78	75

The export prices of Thermal and violet of DI corroborate with import prices from subject country and therefore contention of DI that Thermal and Violet plates prices are not credible is not justified.

f) Performance of other products produced and sold by the domestic industry

63. The performance of other products being produced and sold by the domestic industry has not affected the assessment made by the Authority of the domestic industry's performance. The information considered by the Authority is with respect to the product under consideration only.

G. DETERMINATION OF LIKELIHOOD OF CONTINUATION OR RECURRENCE INJURY TO THE DOMESTIC INDUSTRY

G.1 Views of the domestic industry

64. The following views have been made by the domestic industry:

- The present sunset review has been initiated pursuant to Rule 23(1B) which stipulates that the Hon'ble Authority is required to examine the likelihood of "continuation or recurrence" of dumping and injury if duties are terminated:

"23. Review. – (1) Any anti-dumping duty imposed under the provision of section 9A of the Act, shall remain in force, so long as and to the extent necessary, to counteract dumping, which is causing injury.

...

(1B) Notwithstanding anything contained in sub-rule (1) or (1A), any definitive antidumping duty levied under the Act, shall be effective for a period not exceeding five years from the date of its imposition, unless the

designated authority comes to a conclusion, on a review initiated before that period on its own initiative or upon a duly substantiated request made by or on behalf of the domestic industry, within a reasonable period of time prior to the expiry of that period, that the expiry of the said anti-dumping duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry.” (Emphasis supplied)

- It is evident that the letter of the law clearly requires the establishment of any one of the two likelihood factors:
 - a. Continuation of dumping and injury; or
 - b. Recurrence of dumping and injury

- In fact, it is trite in law to state that likelihood of continuation or recurrence of dumping and injury is the primary examination to be conducted in a sunset review investigation. The Hon'ble Authority has, in past investigations¹, continued duty on the basis of likelihood even if dumping and injury margins in POI and post POI periods were negative. On this point, the relevant paragraph from the Final Findings in the *Sunset Review of anti-dumping duty imposed on import of Zinc Oxide originating in or exported from China PR* dated 25 June 2013 is reproduced below:

“85. Having regard to the contentions raised, information provided and submissions made by the domestic industry and facts available before the Authority and on the basis of above analysis including analysis of likelihood of continuation of dumping and injury and post Disclosure Statement submissions made by the Domestic Industry, the Authority concludes and recommends that:

(i) The performance of the domestic industry in terms of production, domestic sales, market share, inventories and capacity utilization has remained positive during the period of investigation.

(ii) Performance of the Domestic Industry in terms of profits, return on investments, cash flow etc. has shown improvement. However, though the domestic industry is earning profits, its profitability has declined in the POI as compared to the previous years.

(iii) The subject goods from the subject country are not entering the Indian market at dumped prices in the POI, and dumping margin is negative.

(iv) Price undercutting and price underselling are negative without adding the anti-dumping duties. Further, the injury margin is also negative, and the imports are not causing injury to the domestic industry in the POI.

(v) However, based on the analysis of actual production and the consumption of the subject goods in the Chinese domestic market, disposable capacity, export orientation and potential exports volume of

¹ *Final Findings in the Sunset Review of anti-dumping duty imposed on import of Zinc Oxide originating in or exported from China PR dated 25th June, 2013, paragraph 85*

Chinese producers to India and price attractiveness of the Indian market for the Chinese producers, the Authority determines that the subject country has surplus disposable capacities for production of the subject goods and in the event of withdrawal of the anti-dumping duties, there is likelihood of the surplus disposable capacities being utilized by the companies in China PR to enhance the exports of the subject goods to India at dumped prices whether directly or through transshipment.

...

(vii) The Authority, thus, in order to remove likely injury to the domestic industry, considers it necessary to recommend continuation of definitive anti-dumping duty on all imports of the subject goods from the subject country levied by the Central Government vide its Notification No.64/2007-Customs dated 7th May 2007."

- It is also important to take into consideration the fact that continuation and recurrence are both inherently mutually exclusive conditions. If there is a case of continuing dumping and injury, then there cannot possibly be a recurrence of dumping and injury, since the latter would inherently require an absence of dumping to allow it to recur. It logically follows that once a continuation of dumping and injury has been established, there should be no need to establish a likelihood of recurrence. This position has been supported by the Hon'ble Designated Authority² in a prior investigation:

"70. The Authority notes that in the present investigation, there is the continuous dumping of the subject goods from China PR, causing continued injury to the domestic industry, which ipso facto indicates the likelihood of dumping and injury from the subject country in the event of cessation of the anti-dumping duty. In view of the above position and due to favorable market conditions prevailing in the Indian market as far as demand and price for the subject goods are concerned, the Authority has reason to believe that in the event of cessation of anti-dumping duties, dumping may intensify from China PR. Moreover, China PR being a major producer of subject goods in the world and being the sole exporter to India and anti-dumping duties having been imposed by USA and EU against Chinese imports, in the event of cessation/revocation of anti-dumping duty by India, the entire Indian demand can be met by the Chinese imports and the domestic industry may have to go out of the market. Although likelihood analysis is not a necessity in the present review investigation due to continued dumping and continued injury to the domestic industry on account of such dumping, the Authority has made the following likelihood analysis to reinforce the argument that cessation/revocation of

² Final Finding Sunset Review (SSR) of Anti-Dumping duties imposed on the imports of 'Barium Carbonate', originating in or exported from China PR, Notification No.15/27/2014-Hon'ble Designated Authority dated February 23, 2016, paragraph 70

the existing anti-dumping duty may result in intensified dumping and injury.” (Emphasis supplied)

- In view of the above legal position, reliance is placed on the considerable submissions and information already placed on record which sufficiently establishes that dumping and injury have *continued* even after the levy of duties. Therefore, the Petitioner submits that the said continuation sufficiently fulfil the requirements of Rule 23, and there should now not be any burden upon the Petitioner to also prove *recurrence* of the injury.
- Without prejudice to the above, the Petitioner submits that there is sufficient evidence to establish a likelihood of continuation or recurrence of dumping and injury. While the parameters of likelihood are not explicitly identified in the AD Rules, Paragraph (vii) of Annexure II has been interpreted³ as the governing provision on factors of likelihood. The paragraph reads as follows:

“(vii) A determination of a threat of material injury shall be based on facts and not merely on allegation, conjecture or remote possibility. The change in circumstances which would create a situation in which the dumping would cause injury must be clearly foreseen and imminent. In making a determination regarding the existence of a threat of material injury, the designated authority shall consider, inter alia, such factors as:

(a) a significant rate of increase of dumped imports into India indicating the likelihood of substantially increased importation;

(b) sufficient freely disposable, or an imminent, substantial increase in, capacity of the exporter indicating the likelihood of substantially increased dumped exports to Indian markets, taking into account the availability of other export markets to absorb any additional exports;

(c) whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices, and would likely increase demand for further imports; and

(d) inventories of the article being investigated.”

- Accordingly, the Hon'ble Designated Authority has examined the above parameters as part of its likelihood analysis in recent sunset review investigations. In its Findings issued in the Certain Rubber Chemicals sunset review⁴ as well as the Sodium Nitrite

³ As held by the Hon'ble High Court of Gujarat in *Nirma Limited vs. Union of India and Others*, 2017 (358) E.L.T. 146 (Guj.) dated February 23, 2017 at paragraphs 33.9, 33.9, 34 and 40

⁴ *Final Findings in the case of Sunset Review investigation of Anti-dumping duty imposed on the imports of Certain Rubber Chemicals, namely, TDQ & PX-13 originating in or exported from the European Union and MOR and MBTS originating in or exported from the Peoples Republic of China Notification No. F. No. 15/5/2016- DGAD dated September 2, 2017, paragraphs 172 to 174*

sunset review⁵, the Hon'ble Designated Authority continued duties on the following grounds of likelihood:

- (i) There had been an increase of subject imports indicating a likelihood of increased importation;
- (ii) The domestic industry filed sufficient evidence to demonstrate spare capacities in Subject Country which are likely to be diverted to India if duties are removed;
- (iii) There was price undercutting during POI without anti-dumping duty in case of each of the subject rubber chemicals whereas the same was positive with anti-dumping duty for part of the product scope – this also showed a depressing / suppressing effect.
- (iv) The facts available on records do not contain any dependable evidence on inventories of the article being investigated.

- Apart from the above parameters, the Hon'ble Designated Authority has also analysed other parameters in a recent investigation⁶:

- (i) Dumping margin in previous investigations;
- (ii) Price Attractiveness of the Indian market;
- (iii) The vulnerability of the domestic industry in terms of price sensitivity of the product and Indian market

- Each of the above parameters is accordingly analysed in view of recent investigations as well as information placed on record by the domestic industry.

(a) A significant rate of increase of dumped imports indicating the likelihood of substantially increased importation

- The Petitioner draws the attention of the Hon'ble Authority on import data analysis in the injury section which shows that imports have increased by 69% from China PR in the POI when compared to the base year even after the imposition of anti-dumping duties.

- That the Chinese imports will hit Indian market at intensified dumped prices is also evident from the growing chasm between LME and ShFE prices. The LME prices have been moving north since the first quarter of 2017, and in Oct-Dec 2017 it reached USD 2219 per MT, i.e. as high as April-June 2014. Further, with the recent US tariff on imports of aluminium from China PR, ShFE prices (which are typically

⁵ Final Finding in the Sunset Review of Anti-dumping duty imposed on the imports of Sodium Nitrite originating in or exported from China PR Notification F. No. 15/06/2016/Hon'ble Designated Authority dated July 19, 2017, paragraphs 85 to 89

⁶ Final Finding in the Sun Set Review (SSR) of the Anti-Dumping duty in force concerning imports of "Polytetrafluoroethylene or PTFE" originating in or exported from China PR Notification No. 15/11/2016-DGAD dated June 23, 2017, paragraphs 69 to 80

lower than LME) has taken a further dip.⁷ This means that the cost of production of the PUC in China PR will further come down whereas the cost of production in India will be increasing with the LME prices moving higher. Therefore, the likelihood that imports would further increase at dumped prices once the anti-dumping duties are terminated is imminent. Non-extension of the anti-dumping duties will put the Petitioner in more vulnerable position than where it stands today.

- The Hon'ble Authority would note that Fujifilm (China) stopped exports of the PUC from China after the imposition of anti-dumping duty. However, Fujifilm shifted its exports from European Union and very soon realized that it cannot continue its business on erstwhile Chinese prices from Netherlands and decided to increase prices by 30% to 40%. The Hon'ble Authority may verify this from some of the user industry or Fujifilm itself. Therefore, if the anti-dumping duties are allowed to expire, it is quite obvious that Fujifilm will resume exports from China at dumped prices.

(b) Robust Domestic Industry requires Trade Remedial Measures

- Countries where there remains viable producers of the PUC, have imposed/extended trader remedial measures. Imports of digital plates from China PR have been made subject to anti-dumping duties in countries such as Brazil and South Korea. In fact, Brazil has extended AD duty for further five years in recently concluded sunset review with regard to imports from China PR. Further, anti-dumping duties have also been levied in South Korea on imports of the digital plates from China PR recently in 2017. With the anti-dumping measures put in place by South Korea and Brazil, should the anti-dumping duties be terminated in India, the Chinese exporters would naturally divert their exports from these markets to India given the huge demand in India. In other words, due to the operation of these duties (which limit export markets for Chinese producers), India will become an easy target if it removes its anti-dumping duties.
- Further, the fact that Chinese producers are willing to offload their excess capacities at throwaway prices is also evidenced from quotations received by the Petitioner from one of the major producers from China PR. A perusal of the quotation would show that the Chinese producer is offering UV CtP and Thermal plates in the range of USD *** to *** per SQM which is far below the net sales realization of the Petitioner.
- Furthermore, an analysis of export price from China PR to certain other markets such as Africa and SAARC will show that these prices are lower than the prices at which imports are coming to India. Data on export prices from China PR to some of these

⁷ SHFE aluminium prices dip on lack of clarity regarding future capacity cuts, March 7, 2018, <https://www.fastmarkets.com/base-metals-news/aluminium/shfe-aluminium-prices-dip-lack-clarity-regarding-future-capacity-cuts/>

select markets has been examined. A perusal of the information contained would show that some of the Chinese producers are selling UV CtP and Thermal plates in the range of USD *** to USD *** per SQM which is far below the current net sales realization of the Petitioner.

- Additionally, while the anti-dumping duty in reference form has been able to provide some limited relief to the Petitioner with respect to Thermal and Violet plates, the pricing behavior of the Chinese producers in third countries clearly show that in absence of the anti-dumping duty, the domestic industry will be unable to match the low prices (backed by lower ShFE, government support and huge surplus capacities) offered by Chinese producers. That it is impossible to keep the business viable in the face of Chinese dumped prices is evidenced by the decision of Fujifilm (Netherlands) when it found that it could not compete with Chinese prices and intended to raise its prices by 30%. Given the excessive pressure from Chinese low prices, eventually, Fujifilm (Netherlands) could not increase its prices and withdrew from the Indian market. This issue can be examined by the Hon'ble Authority, and relevant information may be sought by the user industry.
- Should the current anti-dumping duties be removed, Chinese producers are going to intensify dumping and flood Indian market at rock bottom prices. With the rise in LME prices, it will be impossible for the Petitioner to match the prices from China PR and thus, the domestic industry will suffer irreparably and will perish.

(c) Sufficient disposable capacities (or an imminent increase of capacities) in Subject Country likely to lead to the increased importation

- As per the market information available to the Petitioner, huge excess and idle capacity are available in China PR. These capacities are far higher than the total consumption in China PR. The total Indian market for the subject goods is around 38 million SQM per annum. The excess capacity available to the producers in China PR is more than the total domestic demand in India. An analysis of the capacity figures of the Chinese producers would show that Chinese annual capacity is approximately 381 million SQM as opposed to the domestic consumption of approximately 150 to 200 million SQM. This means that China PR has a surplus capacity of approximately 180 to 230 million SQM, part of which is already being exported at dumped prices. It is obvious that once the anti-dumping duties are removed, Chinese producers will dump this surplus in India at throwaway prices similar to what they have been doing in other export markets where there is no anti-dumping duty.
- There has been major shift in global plate industry scenarios over the last 15 years. New plate manufacturing capacities have substantially been added in China PR which now is Approximately 381 Million SQM which accounts for approximately 60% of the global demand. The predatory pricing practices adopted by the Chinese

manufacturers backed by NME conditions prevalent in China PR has led to the Chinese manufacturers being able to gain market share in various countries including India. This has resulted in the closure of several plate manufacturer in Europe and Other Countries. In some countries having local manufacturers like in Brazil and Korea, respective authorities have given higher protection in the form of Anti-dumping duty.

- China's excess capacity is also evident from the fact that nine producers from China PR participated in Brazilian anti-dumping investigation whereas only three producers have purportedly participated in the current sunset review investigation before the Hon'ble Authority. Further, approximately 70% of the domestic demand of the PUC in the Korean market is being served by Chinese imports. The market size of Korea approximately stands at USD 111 million. This shows the huge capacities available to the Chinese producers. Given the growing technology and access to the internet, RISI analytics has predicted that the demand for newsprint in China PR will decline by 7.6 percent per year over next ten years and printing & writing paper demand will decrease 0.7 percent per year, leading to a total demand loss of 3.5 million tonnes.⁸ With the decline in domestic newsprint and plate consumption in China PR and two major markets, i.e. Brazil and Korea being blocked through anti-dumping duties, Chinese producers have a surplus capacity which they would offload in the Indian market at throwaway prices, should the anti-dumping duties in India be allowed to expire.

(d) Export Orientation of Producers from Subject Country

- The spare capacities in China PR are most likely to be utilized for targeting the market in India for two main reasons. Firstly, demand in China PR itself is declining considerably. As per RISI analytics data (referred above), the demand in China PR of subject goods is declining. To substantiate this, the relevant RISI report has already been placed on record for the Hon'ble Designated Authority's consideration. In such a scenario, producers in China PR have to look for other alternative markets to dispose of the excess production. India would be a natural choice for Chinese producers as demand in India would remain strong in future. Secondly, as stated above, Korea and Brazil having imposed anti-dumping duties on imports of the PUC from China PR, the Chinese producers would divert their exports to India in the absence of anti-dumping duty.

(e) Price Suppression or Depression

⁸ China's newsprint demand expected to decline by 7.6 percent per year over next decade, Nov. 30, 2015, <http://www.wan-ifra.org/articles/2015/12/01/china-s-newsprint-demand-expected-to-decline-by-76-percent-per-year-over-next-de>

- As established in the injury analysis above, there is considerable undercutting observed in most of the injury period, as well as in the POI. This has led to notable price suppression and depression as also demonstrated above.

(f) Inventories of Article Being Investigated

- While the Petitioner has limited information regarding inventories available with specific producers from China PR, the various cooperating producers (who represent a prominent share of producers in China PR) may have filed this information in Appendix 4, and the same may have been verified by the Hon'ble Authority. We request the Hon'ble Authority to consider the same in order to assess the inventory available to the producers from China PR.

(g) Price Attractiveness of the Indian Market

- The subject goods are being imported into India at a price substantially lower than domestic price. In terms of actual prices realised, India should not be an attractive market. The Chinese exporters continue to dump the PUC at very low prices due to non-availability of any other attractive market.

(h) The vulnerability of the domestic industry in terms of price sensitivity of the product and Indian market

- The market dynamics for the PUC are significantly impacted by price, i.e. the market is quite price sensitive. This is readily seen by the market share analysis provided by the Petitioner above. The subject imports have been able to take away nearly 6% of the Petitioner's market share by virtue of their undercutting. Further, this undercutting has led to a significant decline in profitability for the Petitioner – the same may also be evidenced from the profit analysis provided above.
- Several customers who bought from the Petitioner during the year 2014-15 and 2015-16, did not buy from the Petitioner during the POI despite repeated price enquiry proposals received from them. It is not as though they ceased to use the PUC. It is likely that they opted for cheaper mis-declared goods from China.
- The Petitioner also submits that in the absence of anti-dumping duty, the entire domestic industry will most certainly cease operations. The Petitioner relies on the pricing behaviour of the Chinese producers in third country markets, the huge surplus available to the Chinese producers and the growing demand in India. The data with respect to Chinese export prices to the third country is already part of the Written Submission dated 12 March 2018. Further, the quotations received by the Petitioner from Chinese producers. A study of the above information will show that Chinese producers are ready to offer UV CtP, Thermal and Violet plates at *prices which are*

totally unrealistic when operating in a market economy. These prices are also way below the non-injurious price of the domestic industry. Currently, the Petitioner is operating under the protection of anti-dumping duty from the unfair practice of Chinese producers (even though such protection has been largely evaded by the Chinese producers through misdeclaration of UV CtP plates as Analog plates). Should the anti-dumping duties be allowed to expire, Chinese producers will be free to dump all types of plates, i.e. UV CtP, Thermal and Violet at the prices which will be far below the cost of sales of the Petitioner. The dumping by Chinese producers will be further augmented in the light of LME prices moving north and ShFE moving south assisted by several incentives from the Chinese government. The demise of the Petitioner will have a negative impact on the health and competitiveness of the downstream user industry particularly commercial printers and newspaper printers.

- That the unfair practices of Chinese producers have destroyed local markets in several countries is evident from the fact that many countries in Europe and North America, who had earlier a thriving local manufacturing industry, are today largely dependent upon Chinese imports which accounted for a meagre share in global trade in printing plates two decades back. Should the anti-dumping duties which are meant to offset the unfair trade practices of the Chinese producers be allowed to expire, India, will be unable to sustain local manufacturer, will have yet another industry in great distress causing loss of jobs, something dialectical to the objectives of “Make in India” campaign.
- The above factors indicate that the Petitioner as well as the new entrants in to the market are in a vulnerable position and needs continued protection from dumped and predatory imports from the subject country.
- As demonstrated above, all the parameters deemed relevant under the AD rules as well as the decisional practice of the Hon'ble Designated Authority indicate that there is a strong likelihood of continuation or recurrence of dumping and injury if the present duties are removed.

A. **Consequences of expiry of Anti-dumping Duty**

(a) Closure of the domestic industry

- Historical evidence shows that dumping from China has led to closure of plants worldwide. Based on market intelligence, it would be seen that there were over 100 printing plate producers a decade ago across the globe and China had none. In last 10 years, the aggressive dumping supported by non-market practices of the Chinese government, the plate manufacturers worldwide have reduced to less than 10, whereas China has seen a drastic growth in plate producers. Today, the Chinese

capacity stands at approximately 525 million sq. m. accounting for almost 70% of the global capacity as opposed to a meagre share in world market a decade ago.

G.2 Views of other interested parties

65. The following views have been made by other interested parties:

- a. It is not possible for the allegedly dumped Chinese imports to cause any injury to the domestic industry owing to the reference price duty fixed in the original investigation and the fact that the prices of Domestic Industry as well as imports are far lower than the reference prices.
- b. The domestic industry has failed to provide any evidence regarding the claim of huge idle capacities in China
- c. Unsubstantiated and hollow claims have been made with regard to the lost orders by the domestic industry. Claims of lost orders, if any, starkly contrast the production, sales and capacity utilization of the domestic industry has increased substantially.
- d. Duties in any other country (Brazil) do not have any effect on the exports of China in Indian market.
- e. There is no reliable basis to make a claim of decline in demand for the subject goods in China.
- f. There is increase in domestic demand and also increase in domestic sales of domestic Chinese producers of the subject goods.
- g. If existing duties are removed then the capital investment, pains and efforts to develop new technologies, employment of workers, outstanding loans of banks, will all be lost forever. Impetus of domestic manufacturers to develop new technologies will be destroyed.
- h. Destruction of domestic manufacturers will seriously damage local printing industry as then the Indian printing industry will be at the mercy of imports from China.

Examination by Authority

66. The Authority notes the trend of export prices by M/s KCGCCL's during previous 2 years of POI and also post POI. The Authority notes that the exporter's prices to countries other than India during POI of different grades are on an average higher than the prices to India which therefore do not indicate possibility of diversion to India on withdrawal of Anti-Dumping Duty. Moreover this issue in case of Kodak is trivial as it is not subjected to an AD measure and its trade pattern does not depict any tendency on Kodak's part having diverted its exports from other global destinations to India in situation of AD measure not existing on them. Further the landed value of exports by Kodak neither led to price suppression/depression on DI's sales as both price undercutting and injury margin are observed to be negative.

67. The Authority notes that Fujifilm has exported the subject goods to India from its other production facilities in EU and Japan post levy of ADD on China. The producer/exporter was requested to also provide exports made by them of subject goods from their other

production facilities in Japan and EU during POI and post POI to India. The producer/exporter and its associated importer have provided data on quantum and value of these exports during POI and post POI (6 months). The Authority notes price realisation of subject goods by the Domestic Industry is contingent on import prices from different sources, be it dumped or non-dumped. The customers of subject goods are concerned about the landed values irrespective of sources. Fujifilm as a group have priced and supplied the subject goods during POI and post POI to its customers in India from EU and Japan and not from China, the subject country. The Authority holds that in event of an Anti-Dumping Duty not existing on imports from China, Fujifilm as a group would maintain these price levels from China as customers would be interested in final price levels rather than source as the group exporting the subject goods is the same. The Authority notes that despite competition the DI has been able to realise domestic prices above the NIP evaluated for POI. The Authority therefore holds that exports by Fujifilm during POI and post POI will not lead to price suppression on Domestic Industry prices and cause injury thereof and that there is no likelihood of Injury to DI in event of withdrawal of Anti-Dumping Duty.

68. For the purpose of likelihood evaluated above, the Authority has also examined as to whether the Domestic Industry has been able to realise prices which enables them reasonable return to prevent injury. For this purpose the Authority looked at 'NIP' determined for POI and also estimated for post POI (6 months) period. While doing so, the Authority has also examined the prices indicated by 'MOU' and import prices from different competing sources (dumped/non-dumped).

Post disclosure comments

69. Submissions made by the domestic industry

- The Hon'ble Authority has rightly maintained the scope of the product under consideration in the present review.
- The Petitioner humbly requests Authority not to consider the import prices from EU to determine causality between imports from subject country and Injury to the Petitioner. There is only one major exporter of the product from EU, i.e. FujiFilm, and in all likelihood, they have had a record of shifting the originating country at intervals. Therefore any comparison would be a temporary phenomenon. If at all the Hon'ble Authority is to consider the import prices from EU for the purpose causality between Import prices from EU and Import prices from subject country, then it should exclude the imports from EU made by Petitioner.
- The Petitioner has not been able to achieve the prices agreeable as per MoU because of price pressures on account of the low landed value of mis-declared imports of Product Under Consideration.
- As regards the Authority's finding at paragraph 18(iii), the CESTAT has specifically upheld the methodology adopted by the Hon'ble Authority for evaluating the dumping margin/injury margin separately for three types of plates for cooperating producers/exporter on the product type exported by them. Without prejudice, it is

also to be appreciated that the methodology adopted in the original investigation can be revisited given the facts that are presented and verified by the Authority.

- The Petitioner submits that it is in agreement with the Authority's finding on market economy treatment. The Authority is requested to maintain this determination in the final finding.
- There should be no reason to withhold the confidential version of the normal value calculation from the Petitioner since the data being used is either general international price data or the Petitioner's information.
- The Petitioner requests the Hon'ble Authority to confirm that the - extensive data on Aluminium Prices on London Metal Exchange (LME) inclusive of premium as well as conversion charges as provided by the Petitioner, has been taken into consideration for determining normal value, and if not, the normal value should be recalculated based on this evidence.
- Petitioner submits that due to limited information available, the Authority should consider the highest of the profit margin earned by the Co-operating exporters for determining the normal value.
- Kodak blatantly misrepresented to the Authority by stating that it has exported only Thermal Plates to India when in fact Kodak has exported Violet Plates to India during the period of investigation under the garb of Thermal Plates. In light of the above, Kodak's response ought to be completely rejected, and the residual margin of dumping should accordingly be applied under Rule 6(8) of the Anti-dumping Rules.
- Without prejudice to the above, should the Hon'ble Authority continue with the present finding as per the disclosure statement, it is strongly submitted that no individual margin should be recommended on the product types not exported to India by Kodak during the POI and Post POI, since there was no export price to either calculate dumping margin or injury margin on the basis of which it should be given benefit of doubt.
- The Petitioner strongly opposes the methodology of the Hon'ble Designated Authority using limited data from incomplete Importers questionnaire response filed without Appendices 5 and 6 by the sole importer, i.e. Lucky. It is surprising to find that the Hon'ble Designated Authority is relying upon the export price volume and value without taking into consideration the onward price re-sale information of the types of plates imported into question and accepting the export price of Lucky which also remains unverified as per the records of the Hon'ble Designated Authority. The following facts of the case require re-consideration: (a) on what basis did the Authority conduct the verification at the premises of Lucky when they had provided

incomplete responses? (b) on what basis of law and precedents is the Hon'ble Designated Authority re-calculating the export price to dump margin when it is a matter of fact that the ERP did not provide backup data? (c) on what basis of law and precedents, the data of sole importer i.e. Kapoor Imaging is being considered when the questionnaire response remains incomplete as well as their domestic operations are under surveillance by revenue authorities for mis-declaration and/or customs valuation issues?

- The Petitioner humbly requests the Hon'ble Authority to reject the export price data and information provided by Lucky since the information relied on by Lucky vide its questionnaire response could not be verified.
- Lucky has an exclusive importer in India namely, Kapoor Imaging Private Limited (“**Kapoor**”) involved in onward sales of the product as a trader in India. Kapoor imports digital plates from Lucky at a high price and then sells to its Indian customers at a considerably lower price.
- Lucky, with assistance from Kapoor, has engaged in an elaborate arrangement to avoid paying anti-dumping duties. The price reported by Lucky to the Hon'ble Authority is not appropriately representative of the price paid by customers. The Hon'ble Authority must take cognizance of the evidence being provided for Lucky's malpractice and reject its response with immediate effect.
- Lucky has claimed to export only Thermal Plates to India during the period of investigation. However, the Petitioner has provided ample evidence to prove that Lucky exported UV CtP Plates to India and mis-declared the same as PS Analog Plates to avoid anti-dumping duties.
- It is the well-established practice of the Hon'ble Authority that incorrectly reported data is rejected, and the party misreporting such data is held to be non-cooperative. Contrary to the law and established a practice, the Hon'ble Authority has proposed to give an individual margin to Lucky.
- Within the facts of the present case, there is confirmed data made available to the Hon'ble Designated Authority that the volume data of mis-declared UV CtP plates do not match or has manipulated to seek individual margin by the said exporter and importer in question which is covered within the scope of the investigation and therefore the so-called cooperating parties cannot merit any individual dumping margin.
- The Petitioner strongly submits to the Hon'ble Authority that given glaring inadequacies and responses filed by Lucky and Kapoor there is no reason to grant special status to Lucky which merits individual margin.

- The Petitioner submits that if a producer/exporter does not export the subject goods during the POI, then an individual margin cannot be accorded to the responding producer/exporter. Therefore, the Petitioner humbly requests the Hon'ble Authority to reject the questionnaire response and not calculate an export price for Fujifilm as it did not export the subject goods during the POI.
- The Petitioner has already provided detailed averments on the export of Violet Plates in the period of investigation from China; the same is relied upon and reiterated. It is also reiterated that Kodak has mis declared its Violet Plates exports as Thermal Plates.
- While historically the Petitioner may have appeared to be 'immune' to Kodak's exports, there is a strong likelihood that Kodak's export price is now starting to become suppressive, which is bound to have a negative impact on the Petitioner as well.
- The fact that Fujifilm supplied Thermal and Violet Plates from other production plants demonstrates that Fujifilm is keen on continuing exports to India – it is only because of the existing duties that it has changed the location from where it exports the goods. Based on its focus on the Indian market, it can reasonably be assumed that Fujifilm will promptly resume low-priced exports from China as soon as duties are removed
- With regard to the Petitioner's realization of Thermal and Violet Plates indicating an absence of price suppression, it is submitted that a perceived absence of price suppression must not be construed to imply that there is no longer a requirement for anti-dumping duties, for the following reasons:
 - The Petitioner has filed ample evidence to establish that if duties are allowed to expire, there will be a severely recurrent injury. The positive injury margin in the post-POI period demonstrates that the Petitioner is already facing enough pressure from imports.
 - The perceived absence of price suppression itself is on account of the existing anti-dumping duties. This should not be misconstrued to mean that there is no longer a requirement of duties.
- The market share of the Domestic Industry and the other Indian Producers has been witnessing a decline while the market share of the Subject Country and other countries has observed an increase from the base year to the POI.

- There are more than 75 major producers in China (details of which are already placed on record) with considerable disposable capacities. If duties are allowed to expire, their exports are likely to be directed to India at injurious and dumped prices.
- Kodak started Violet Plates exports in POI which increased substantially in the Post-POI period by ***%. During this period of increase in quantities, Kodak's prices also reduced slightly. Further, these exports were made at a price notably below the NIP of the Petitioner. This indicates a strong likelihood of dumped and injurious imports if duties are allowed to expire.
- The same major players from China are also capable of applying price pressures from their other export locations, allowing them to control the Indian market and keep prices low. If duties are allowed to expire, this will compound the likelihood of recurrence of the injury, rendering the last few years of duty completely futile.
- The Petitioner submits that the trend with respect to the “exports made by them of subject goods from their other production facilities in Japan and EU during POI and post POI to India” should be made available to the Petitioner in a non-confidential form to facilitate meaningful analysis.
- The exports made by Fujifilm from EU and Japan would be made through China which would have a lower cost of production thus being a more economical and viable option to export from rather than EU and Japan.
- The Authority has not concluded on the likelihood of continuance of recurring injury for exports made by Lucky. In this behalf, the Petitioner submits that there is great threat and likelihood of continued injury which can be substantiated by the pricing behavior of Lucky to third countries. In this regard, the Petitioner draws the attention of Authority to Exhibit 1, wherein the Petitioner has furnished some sample export invoices to third countries. The same clearly demonstrates the pricing behavior of Lucky and imminent threat to the Domestic Industry.
- The Petitioner submits that the Authority has rightly acknowledged the Petitioner's reasons for miniscule imports made from the EU, as well as quantities and values thereof, in the disclosure
- If at all the Hon'ble Authority must use prices from EU for its causal link analysis, the Petitioner requests the Hon'ble Authority to exclude those imports which were made by the Petitioner. The primary reason for this exclusion would be that the Hon'ble Authority is proposing to use EU imports for examining causality between subject imports and injury to the Domestic Industry. In such a case, it is important to exclude those imports which were made by the Domestic Industry itself i.e. imports which (irrespective of price) could not have injured the Domestic Industry as it was

not competing against these imports. Further, the Petitioner submits that since these imports are merely ***% of production as also ***% of demand of country any analysis of imports made by the Domestic Industry for examining the causality would be in appropriate and illogical in the view of the facts of the case. This is also confirmed from the analysis that the price comparison clearly shows that limited types of plate imports made from EU (excluding imports made by the Domestic Industry) are entering in the market at much higher prices than imports from the subject country.

- In the view of the above, the Petitioner humbly requests the Hon'ble Authority not to consider the import prices from EU for the purpose of determining causality between imports from subject country and Injury to the Petitioner. Further it is also a matter of fact that the exports from EU are clearly dependent upon the continuation of the anti-dumping duty in the present investigation. There is only one major exporter of the product from EU i.e. Fuji and in all likelihood, they have had a record of shifting the originating country at intervals, therefore any comparison would be a temporary phenomenon. If at all the Hon'ble Authority is to consider the import prices from EU for the purpose causality between Import prices from EU and Import prices from subject country, then it should exclude the imports from EU made by Petitioner.
- The Hon'ble Authority, at Paragraph 18(ii) of the Disclosure statement, there appears to be a typographical error when addressing 'other subject countries' since there is no other subject country in the present review apart from China.
- With regard to the Hon'ble Authority's proposal to examine price under the MOU and the price realized by the Petitioner with the prices offered by other sources, the Petitioner submits that prices in the market remained vulnerable to the import prices from the subject country i.e. China. The Petitioner has not been able to achieve and realize the agreed MoU prices for most of the injury period. Provided below is a comparison of the prices as per MoU, Landed Value of subject goods from China and Net Sales Realisation of the Petitioner for the POI and Post POI for each grade of product under consideration.

Table

Values in INR/SQM

Particulars	UV CtP		Thermal		Violet	
	POI	Post POI	POI	Post POI	POI	Post POI
NSR as per MoU	***	***	***	***	***	***
Actual NSR	***	***	***	***	***	***

Landed cost	***	***	***	***	***	***
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Source: DGCI&S Import Data

- It is clear from the above that the Petitioner have not been able to achieve the prices agreeable as per MoU because of price pressures on account of the low landed value of mis-declared imports of Product Under Consideration.
- The intent of the MoU was to link the price of the product under consideration to Aluminium Prices in order to provide assurance to the users that Petitioner will not arbitrarily increase its price after the protection of Anti-dumping duties. However, as can be seen from the above table, the Petitioner has never been able to achieve/realise the stipulated prices because of the price pressures from Chinese imports.
- At paragraph 24 of the Disclosure Statement, the Hon'ble Authority notes that Kodak has exported only Thermal Plates to India. It is respectfully submitted that this determination is factually incorrect and based on false and misleading information filed by Kodak. In this behalf, the Petitioner has filed compelling evidence vide communication dated April 12, 2018, which proves beyond a shadow of doubt that Kodak has actually exported Violet Plates to India during the period of investigation under the garb of Thermal Plates. Not only has Kodak attempted to deceive Indian Customs but has also blatantly misrepresented to the Hon'ble Authority, in light of which their response ought to be completely rejected and the residual margin of dumping should accordingly be applied under Rule 6(8) of the Anti-Dumping Rules.
- Without prejudice to the above, should the Hon'ble Authority continue with the present finding as per the disclosure statement, it is strongly submitted that no individual margin should be recommended on the product types not exported to India by Kodak during the POI and Post POI, since there was no export price to either calculate dumping margin or injury margin on the basis of which it should be given benefit of doubt. Accordingly, Kodak (and indeed all other exporters) should receive the residual margin of dumping for all those products which it did not export to India during the prescribed period, given that the Hon'ble Designated Authority has recommended individual margins for all the types of products.
- The Hon'ble Authority has calculated the export price for Lucky even though no evidence was provided by Lucky in order to substantiate the adjustments claimed by it:
- The Petitioner submits that the Hon'ble Authority should not accord an individual margin for a producer/exporter when the party's ERP system and documentation failed to substantiate the data filed for adjustments. Considering that Lucky only

filed export price data, it had a lesser burden in terms of verification since it did not have to justify its domestic sales, cost or other parameters. In such a case, with only export price needed to be verified, the Hon'ble Authority should at least have scrutinized Lucky's claims vigilantly. In fact, Lucky has not even responded to Part II of the questionnaire response which is mandatorily required to be responded to in a sunset review investigation.

- In view of the above, the Petitioner humbly requests the Hon'ble Authority to reject the export price data and information provided by Lucky since the information relied on by Lucky vide its questionnaire response could not be verified. The Hon'ble Authority in the *Final Finding in the Sunset Review Investigation of anti-dumping duty on Nylon Filament Yarn*, did not determine an individual margin for the responding exporter as back up documents and information was not provided by the producer and exporter.
- It is unprecedented and surprising to find that the Authority in view of its own precedence in cases where the Exporter has not co-operated has gone ahead and has accepted the data of Lucky. This is in complete violation of the judgment by the Hon'ble Supreme Court *Haldor Topsoe* where the Hon'ble Court laid down a clear precedent on the principals of non-cooperation. Further, it is to be appreciated that the conduct of Lucky and its sole importer in India Kapoor Imaging requires reconsideration given that in spite of filing an incomplete questionnaire response and failing to substantiate its own data, Lucky has been accorded an individual margin.
- The Petitioner strongly opposes the methodology of the Hon'ble Designated Authority using limited data from incomplete Importers questionnaire response filed without Appendices 5 and 6 by the sole importer i.e. Lucky. It is surprising to find that the Hon'ble Designated Authority is relying upon the export price volume and value without taking into consideration the onward price re-sale information of the types of plates imported into question and accepting the export price of Lucky which also remains unverified as per the records of the Hon'ble Designated Authority. The following facts of the case require re-consideration: (a) on what basis did the Authority conduct the verification at the premises of Lucky, when they had provided incomplete responses? (b) on what basis of law and precedents is the Hon'ble Designated Authority re-calculating the export price for the purposes of dumping margin when it is a matter of fact that the ERP did not provide backup data? (c) on what basis of law and precedents, the data of sole importer i.e. Kapoor Imaging is being considered when the questionnaire response remains incomplete as well as their domestic operations are under surveillance by revenue authorities for mis-declaration and / or customs valuation issues? All of these questions merit response, as the best practices of the Hon'ble Designated Authority in the normal course deny any individual margin treatment to a particular producer/exporter.

- Without prejudice to the above, even if the data of Lucky is accepted despite not meeting the requirement of verification and substantiation, the Petitioner submits that there are other fatal misrepresentations in the data reported by Lucky and its sole importer Kapoor Imaging.
- Price of Thermal Plates to India is Over-Invoiced: It is a well-known fact that Lucky has an exclusive importer in India namely, Kapoor Imaging Private Limited (“**Kapoor**”) involved in onward sales of the product as a trader in India. However, Lucky has not disclosed to the Hon'ble Authority that the prices at which it exports material to Kapoor are substantially inflated - a fact readily verified by Kapoor's onward sales price in the same period. In other words, Kapoor imports digital plates from Lucky at a high price, and then sells to its Indian customers at a considerably lower price.
- To prove this suspicious behaviour, the Petitioner presents the following evidence for the Hon'ble Designated Authority's serious consideration:
 - Proof of Lucky's prices of the same product (i.e. Thermal Plates) to Indonesia: It can be seen that the prices of Lucky to Indonesia are much lower than the prices to India even though there are no duties in Indonesia. As can be seen from submitted evidence, there is a difference of *** in the prices.
 - Proof of Kapoor's price to Indian Customers: The invoices and quotations of Kapoor to its customers for Thermal Plates imported from Lucky, show that the prices are much lower than those reported by Lucky. There are only two possibilities here: either Kapoor is deliberately running into losses or Kapoor and Lucky have tried to evade duties by illegally inflating the import price. Needless to say, this compensatory arrangement between the two should not be allowed to continue as they are simply attempting to render the anti-dumping duties futile.
 - Price between Kodak and Lucky: Another peculiar difference can be observed in the prices offered by Kodak or FujiFilm and prices offered by Lucky for the Thermal Plates in the POI. There is a conspicuous difference of more than *** between prices of Kodak and Lucky and more than *** between the prices of FujiFilm and Lucky, i.e. prices of Lucky are again suspiciously higher.
- In view of the above, it is clear that Lucky, with assistance from Kapoor, has engaged in an elaborate arrangement to avoid paying anti-dumping duties. Most critically, the price reported by Lucky to the Hon'ble Authority is not appropriately representative of the price paid by customers. The Hon'ble Authority must take cognizance of the evidence being provided for Lucky's malpractice and reject its response with immediate effect.

- Misdeclaration of UV CtP Plates as PS Analog Plates: It is well known that Lucky has claimed to export only Thermal Plates to India during the period of investigation. However, the Petitioner has provided ample evidence to prove that Lucky exported UV CtP Plates to India and mis-declared the same as PS Analog Plates to avoid anti-dumping duties.
- The Petitioner refers to the evidence found by the Hon'ble Authority which contains an acknowledgement by the Directorate of Revenue and Intelligence (“**DRI**”) and Customs Authorities that there has been mass mis-declaration of UV CtP Plates as PS Analog Plates in the POI to the extent of *** million Sqm. The Hon'ble Authority is also aware, through the above communications, that out of the *** million sqm of mis-declared plates, *** million sqm were exported by Lucky. The Petitioner had also made other critical arguments substantiating its claim on misdeclaration such as demand in India, the brand (Topaz) of goods in question etc. The misdeclaration of UV CtP plates as Analog plates have been noted by the Hon'ble Authority at paragraph 39 of the Disclosure Statement. In view of the same, the Hon'ble Authority is requested to reject the submissions made by Lucky and must not accord individual margin to Lucky.
- However, if there is an acknowledgement of the misdeclaration, that means UV CtP Plates were indeed exported by Lucky in the period of investigation. However, the Hon'ble Authority has paradoxically stated at paragraph 24(B) that Lucky has exported only Thermal Plates to India in the period of investigation. The question that begs consideration is: if indeed there was misdeclaration of the data, should Lucky not have reported the sales correctly in Appendix 2 that it filed with the Hon'ble Authority?
- The Petitioner is perplexed as to how Lucky's data was even accepted when it reported only Thermal Plate sales to India, even when the Authority knew that it had exported UV CtP plates during the period of investigation. It is the well-established practice of the Hon'ble Authority that incorrectly reported data is rejected, and the party misreporting such data is held to be non-cooperative. Contrary to the law and established practice, the Hon'ble Authority has proposed to give an individual margin to Lucky.
- In order to substantiate the same, the Petitioner submits it has received one test certificate from an independent government recognized lab certifying the plates being imported as PS Analog Plates bearing the Topaz brand (an exclusive brand of Lucky and Kapoor) are in fact UV CtP Plates. It is interesting to note that the outer label of the same also reflects that the same are UV Plates which are nothing but UV CtP Plates.

- The Petitioner draws the Hon'ble Authority's attention to the communication dated April 12, 2018, where the Petitioner has submitted the detailed submissions concerning the above and same are not repeated for the sake of brevity.
- The Petitioner also relies upon the Final Finding recommended by the Hon'ble Designated Authority in the *investigation concerning imports of Tyre Curing Presses for Tyres originating in or exported from China PR* wherein based on the similar facts wherein the volumes of the exports and imports do not tally, thus there is no questions of according individual treatment to the said exporter.
- Within the facts of the present case, there is confirmed data made available to the Hon'ble Designated Authority that the volume data of mis-declared UVCTP plates do not match or has been declared by the said exporter and importer in question which is covered within the scope of the investigation and therefore the so-called cooperating parties cannot merit any individual dumping margin.
- In light of the above arguments, the Petitioner strongly submits to the Hon'ble Authority that in view of glaring inadequacies and responses filed by Lucky and Kapoor there is no reason to grant special status to lucky which merits individual margin.
- The Hon'ble Authority has observed that Fujifilm has not exported the subject goods to India during the POI:
“25. ... During the POI M/s, FFCN has not exported the subject goods to India. The Authority had carried out onsite verification of the data filed by FFPS and FFCN related to global exports and domestic sales by FFCN. The producer/exporter have not claimed market economy treatment to determine 'normal value' by their domestic sales.”
- The Petitioner submits that if a producer/exporter does not export the subject goods during the POI, then an individual margin cannot be accorded to the responding producer/exporter. The Hon'ble Authority in the *Sunset Review of Anti-Dumping Duty imposed on Viscose Staple Fibre* did not determine an export price for the exporters who did not export the subject goods in the POI even though they filed their questionnaire response:
- In light of the above, the Petitioner humbly requests the Hon'ble Authority to reject the questionnaire response and not calculate an export price for Fujifilm as it did not export the subject goods during the POI.
- The Petitioner respectfully submits that the statement in para 30 of the disclosure appears to be contradicted by the facts on record. The Petitioner has already provided

detailed averments on the export of Violet Plates in the period of investigation from China; the same is relied upon and reiterated. It is also reiterated that Kodak has misdeclared its Violet Plates exports as Thermal Plates.

- The Hon'ble Authority noted that Fujifilm had exported Thermal Plates and Violet Plates from its production plants in EU and Japan:
- While the Hon'ble Authority may have found that Kodak's prices are above Petitioner's NIP during the period of investigation, it is important to note that Kodak prices in the post-POI period were below the NIP. This is a strong indication of the fact that while historically the Petitioner may have appeared to be 'immune' to Kodak's exports, there is a strong likelihood that Kodak's export price is now starting to become suppressive, which is bound to have a negative impact on the Petitioner as well.
- Further, the fact that Fujifilm supplied Thermal and Violet Plates from other production plants demonstrate that Fujifilm is keen on continuing exports to India – it is only because of the existing duties that it has changed the location from where it exports the goods. Based on its focus on the Indian market, it can reasonably be assumed that Fujifilm will promptly resume low-priced exports from China as soon as duties are removed, whereby there is a need to continue duties to protect the Domestic Industry from predatory dumped prices.
- With regard to para 32 of disclosure, it is stated the Petitioner's realization of Thermal and Violet Plates indicating an absence of price suppression, it is submitted that a perceived absence of price suppression must not be construed to imply that there is no longer a requirement for anti-dumping duties, for the following reasons:
 - The primary examination in a sunset review pertains to likelihood. In other words, it is not just important to examine whether the Domestic Industry is injured, but also whether the removal of duties will lead to a likelihood of recurrence of the injury. The Petitioner has filed ample evidence to establish that if duties are allowed to expire, there will be a severely recurrent injury. The positive injury margin in the post-POI period demonstrates that the Petitioner is already facing enough pressure from imports.
 - The perceived absence of price suppression itself is on account of the existing anti-dumping duties. This should not be misconstrued to mean that there is no longer a requirement of duties. As mentioned above, there is sufficient evidence on record to establish that the removal of duties will lead to a recurrence of price suppression.
- In view of the above the statement, the conclusions drawn by the Hon'ble Authority at paragraphs 30 to 34 of the Disclosure Statement ought to be revisited as they are not corroborated by the facts on record.

- The Hon'ble Authority has observed *that there has been a rise in demand for the product concerned over the injury period.*
- As can be observed hereinabove, the market share of the Domestic Industry and the other Indian Producers has been witnessing a decline while the market share of the Subject Country and other countries has observed an increase from the base year to the POI.
- At the outset, the Petitioner relies upon the considerable evidence it has placed on record to establish that there is a strong likelihood of continuation or recurrence of injury to the Domestic Industry in case duties are allowed to expire.
- There are more than 75 major producers in China (details of which are already placed on record) with considerable disposable capacities. If duties are allowed to expire, their exports are likely to be directed to India at injurious and dumped prices. The Petitioner has filed sufficient evidence to substantiate its claims in this behalf.
- However, the Hon'ble Authority, in its likelihood analysis, has not conducted any analysis or disclosed the data it proposes to rely upon. There does not appear to be any analysis of the Exports made by the Co-operating entities from their China/Netherland/Japan plants to other third countries to assess whether there is any likelihood of dumping or injury insofar as Thermal and Violet Plates are concerned.
- The Hon'ble Authority has noted a possibility that the export price of Kodak to India would not reduce:

“67. The Authority notes that the trend of export prices by M/s KCGCCL’s during previous 2 years of POI and also post POI. The Authority notes that the exporter prices to countries other than India during POI of different grades are on an average higher than the prices to India which therefore do not indicate the possibility of diversion to India on withdrawal of Anti-Dumping Duty. Moreover, this issue in case of Kodak is trivial as it is not subjected to an AD measure and its trade pattern does not depict any tendency of kodak’s part having diverted its exports from other global destinations to India in a situation of AD measure not existing on them. Further, the landed value of exports by Kodak neither led to price suppression/depression on DI’s sales as both price undercutting, and injury margin are observed to be negative.”
- The Petitioner submits that Kodak started Violet Plates exports in POI which increased substantially in the Post-POI period by *** %. During this period of increase in quantities, Kodak’s prices also reduced slightly. Further, these exports

were made at a price notably below the NIP of the Petitioner. This indicates a strong likelihood of dumped and injurious imports if duties are allowed to expire.

- The Hon'ble Authority has held as follows at paragraph 68 of the Disclosure Statement:

“The Authority notes that Fujifilm has exported the subject goods to India from its other production facilities in EU and Japan post-levy of ADD on China. The producer/exporter was requested to also provide exports made by them of subject goods from their other production facilities in Japan and EU during POI and post POI to India. The producer/exporter and its associated importer have provided data on quantum and value of these exports during POI and post POI (6 months). The Authority notes price realisation of subject goods by the Domestic Industry is contingent on import prices from different sources, be it dumped or non-dumped.”
(Emphasis Supplied)

- The Petitioner submits that the Hon'ble Authority has rightly concluded that the Petitioner is vulnerable to import prices. It is also important to keep in mind that the same major players from China are also capable of applying price pressures from their other export locations, allowing them to control the Indian market and keep prices low. If duties are allowed to expire, this will compound the likelihood of recurrence of the injury, rendering the last few years of duty completely futile.
- The Petitioner submits that the trend with respect to the “exports made by them of subject goods from their other production facilities in Japan and EU during POI and post POI to India” should be made available to the Petitioner in a non-confidential form in order to facilitate meaningful analysis.
- The Authority, vide the Final Finding of the *Sunset Review on anti-dumping duty imposed on DVD-R and DVDRW*, recommended an anti-dumping duty on Hong Kong even when there were no imports from Hong Kong during the POI due the fact that the subject goods would get diverted through Hong Kong in the event the anti-dumping duty is removed:
“129.As far as Hong Kong is concerned, though there are no imports from that country during the investigation period it has been established that there is a strong likelihood of goods of other origins being diverted through Hong Kong if the duties are removed on Hong Kong, keeping in view that this country does not have any production capacity for the subject goods and most of the goods exported from this country are actually manufactured elsewhere.” Similarly, in the present investigation, the exports made by Fujifilm from EU and Japan would then be made through China which would have a lower cost of production thus being a more economical and viable option to export from rather than EU and Japan. Moreover, in the present investigation, unlike the abovementioned finding, Fujifilm has plants

in China due to which Fujifilm would not have to divert the PUC rather it would manufacture it in China and thus not incurring any additional costs as well.

- The Authority has not concluded on the likelihood of continuance of recurring injury for exports made by Lucky. In this behalf, the Petitioner submits that there are great threat and likelihood of continued injury which can be substantiated by the pricing behaviour of Lucky to third countries. In this regard, the Petitioner draws the attention of Hon'ble Authority to invoices filed by them. The same clearly demonstrates the pricing behaviour of Lucky and imminent threat to the Domestic Industry.
- The Petitioner has made the detailed submission with respect to Likelihood of continued injury or recurrence of injury in its Written Submission dated March 12, 2018, and Rejoinder Submission dated March 19, 2018, which have not been considered by the Hon'ble Authority in the disclosure statement. The summary of the same is reiterated below, and detailed submissions are not reproduced here for the sake of brevity.
 - A significant rate of increase of dumped imports indicating the likelihood of substantially increased importation
 - Likelihood of trade diversion from China PR and price injury
 - Sufficient disposable capacities (or an imminent increase of capacities) in Subject Country likely to lead to the increased importation
 - Pricing behaviour of the Chinese producers to third countries
 - Offers from Chinese producers to India at predatory prices
 - Export Orientation of producers from Subject Country
 - ADD Measures continues against China by two major markets Product under Consideration: i.e. Korea RP and Brazil
 - Price Suppression and Depression
 - Inventories of Article being investigated
 - Price attractiveness of the Indian market
 - The vulnerability of the Domestic Industry in terms of price sensitivity of the product and Indian market.

70. **Submissions made by the exporters, importers and Other Interested Parties/ other Parties**

Comments by various interested parties are as follows:

(i) M/s Metrostar Print Solutions Pvt. Ltd.

- We would like to reiterate that we began our operations mainly because of the support by the way of Anti-dumping duty that was given by your good office on Products Under Consideration (PUC) against cheap Chinese imports. If the support

and protection of the Anti-dumping duty is withdrawn, we will not be in the position to compete with the Chinese goods which are dumped at utter cheap prices.

- On the perusal of the Discloser statement issued by your good office, it was surprising to find that M/S Lucky has exported only Thermal Plates, whereas it is a well-known fact in the market and our market intelligence that the Kapoor is the one of the largest supplier of the UV CtP Plates in India under the brand name of Topaz. We would be happy to provide evidence should the Authority require the same.
- Further, we were in dismay after finding that Lucky has been given negative dumping margin despite providing incomplete and wrong information to your good office. Also, we note that the accounting system of Lucky could not provide the backups of the export price calculation.
- We request the Authority, that, being a newly established company, we need the protection of the Anti-dumping duties on all three types of plates, against the Chinese producer's conduct and unfair trade practices of misdeclaration and MIS-representation. Therefore, the Authority is requested to reject the claim of Lucky and levy the duties to lucky and all other Chinese exporters.

(ii) All India Federation of Master Printers

- The various injury parameters disclosed show that if anti-dumping duty is not continued in this case, there is a strong likelihood that injury to the domestic industry shall continue which in turn adversely affect the users i.e. Indian Printing Industry at large. In absence of Domestic Manufacturers, the Indian Printing Industry would lose its competitiveness. This is evident from the injury parameters listed in the disclosure statement.
- While sales of the domestic industry increased by 24% during the injury period, imports from the subject country increased by 72%, three-times the increase of sales of the domestic industry. Even though sales of other Indian producers increased by 4% and imports from third countries increased by 91% in the same period, the share held by these two categories was only 1% and 11%, respectively. The domestic industry was not facing injury from other producers in India.
- On the other hand, market share of imports from the subject country increased from 15% in the base year to 19% during the POI. The domestic industry lost its market share to imports of the subject goods, as its market share reduced drastically from 76% in the base year to 69% during the POI. This does not reflect well on the health of the domestic industry.
- While the demand of the subject goods increased by 38% in the injury period, the domestic industry lost 7% market share in the same period, while imports from the subject country gained market share and had captured 19% of the market by the POI.
- From the Disclosure Statement, one can easily understand that the profitability of the domestic industry also does not look good.
- Profitability per unit declined from 100 indexed points in the base year to 62 indexed points during the POI. Total profitability declined from 100 indexed points to 77 indexed points during the POI. Case profits followed a similar trend reporting a

decline from 100 indexed points in the base year to 74 indexed points during the POI. Profit before interest and tax showed a sharp decline from 100 indexed points in the base year to 65 indexed points during the POI. Return on capital employed declined from 100 indexed points in the base year to 60 indexed points during the POI.

- In the interest of the domestic industry and users in India, we request the Designated Authority to recommend continuation of the anti-dumping duty on the subject goods. We await the Designated Authority's kind recommendation in this regard.

(iii)M/s Orion Photosensitive Systems

- The various injury parameters disclosed show that if anti-dumping is not continued in this case, there is a strong likelihood that injury to the domestic industry shall continue. This is evident from all the injury parameters listed in the disclosure statement.
- The market share of imports from the subject country increased from 15% in the base year to 19% during the POI. The domestic industry lost its market share to imports of the subject goods, as its market share reduced drastically from 76% in the base year to 69% during the POI. This has mainly happened due to the rampant dumping and mis declaration practices which has impacted the domestic industry very badly.
- Though the demand of the subject goods increased by 38% in the injury period, the domestic industry lost 7% market share in the same period, while imports from the subject country; gained market share and had captured 19% of the market by the POI.
- We observed in the Disclosure statement that Lucky Huaguang Graphics Co. Ltd has been given a negative Dumping margin. But in fact Lucky Huaguang Graphics Co. Ltd is bringing in huge quantity of UV CtCP plates by mis declaring them as Analog. (P. S. Plates)
- We request you that Lucky Huaguang Graphics Co. Ltd and all other Chinese manufactures be included in Anti-Dumping Duty on similar category with all other Chinese manufacturers and exporters.
- We are manufacturers Offset Printing Plates which include UV(CtCP) Digital Plates and Thermal Digital Printing Plates. We are manufacturing Analogue offset printing plates since 2006, and digital plates since 2012.
- We M/S. Orion Photosensitive Systems are facing immense financial strains on account of the rampant dumping of the digital offset plates, particularly of the UV (CtCP) variety from China PR. In spite of the currently existing Anti-Dumping Duty. This is happening because importers find ways and means to circumvent the Anti-Dumping Duty and continue to evade the legitimate duties. This is done by mis declaring the goods as P.S. Plates, though they are in fact UV CtCP plates.
- We believe that in case the current Anti-dumping duties get withdrawn, there will be a huge influx of cheap Chinese digital plates into the country which will virtually wipe out the domestic industry.

- If the existing duties are removed, then the end of Domestic Manufacturers engaged in production if Digital Plates will be imminent.
- We request to extend Anti-Dumping Duty on all the Three types of Digital plates namely 1) UV CtCP 2) Thermal CTP and 3) Violet CTP. This provision is essential to prevent mis declaration by importers and causing huge loss to domestic industry.

(iv)M/s TPM Consultants on behalf of Kapoor Imagings Pvt. Ltd., Lucky Huaguang Graphics Co. Ltd. and Shangai Strong State Printing Equipment Ltd.

- Article 6 in its relevant part states that the authority shall, before a final determination is made, inform all interested parties of the essential facts under consideration which form the basis for the decision whether to apply definitive measures. In WTO Panel Report, WT/DS-414/R in China – Countervailing and Anti-Dumping Duties on Grain Oriented Flat-Rolled Electrical Steel from the United States, it was observed that in order to apply definitive measures at the conclusion of anti-dumping investigations, an investigating authority must find dumping, injury and a causal link. Therefore, the “essential facts” underlying the findings and conclusions relating to these elements form the basis of the decision to apply definitive measures and should be disclosed.
- Thus, findings on facts relevant to determine dumping, injury and causal link needs to be disclosed by the Authority. The Authority has merely provided the year on year trends on various economic parameters such as production, sales and capacity utilisation, etc. It is submitted that the Authority’s conclusion on these injury parameters constitute “essential fact”. Without disclosure of these facts, we are not able to make meaningful comments. For making meaningful comments an effective disclosure of all the facts that form the basis of the final finding are required to be made. In this regard the judgment in the matter of Nirma Limited Vs. Union of India of the Hon’ble High Court of Gujarat at Ahmadabad is also relevant and the same is reproduced herein below:

“while Article 6.9 does not prescribe a particular form for the disclosure of the essential facts, it does require in all cases that the investigating authority disclose those facts in such a manner that an interested party can understand clearly what data the investigating authority has used, and how those data were used to determine the margin of dumping. The disclosure statement, therefore, contains the intermediate findings and conclusions of the designated authority on the essential facts which would form the basis for the decision whether or not to apply definitive measures and not final conclusions on whether or not definite measures are required to be applied. In the opinion of this court, as rightly submitted by the learned counsel for the petitioners, the disclosure statement should contain the conclusions of the designated authority on those essential facts which would form the basis for its decision as to whether or not to apply definitive measures and not its conclusions on the basis of

those essential facts. The conclusions on the basis of the essential facts are to be recorded in the final findings, viz., whether or not on the basis of such facts definitive measures are required to be applied.”

- The Designated Authority therefore needs to conclude on facts before issuing disclosure statement, the Designated Authority need not conclude on the investigations at the stage of disclosure statement. Some of the examples of essential facts under consideration of the Designated Authority are
“Scope of the product under consideration, Scope of the like article offered by the domestic industry, Scope of the petitioners to constitute domestic industry, Dumping & dumping margin, Whether the domestic industry has suffered continued injury. If not so, whether injury to the domestic industry is likely, Whether the injury to the domestic industry is due to other known listed factors, Whether the injury to the domestic industry is due to factors other than dumped imports of known listed factors, Whether the injury to the domestic industry is due to dumped imports, Whether there are factors that establish likelihood of dumping and injury”
- The disclosure statement has at various parts have stated that they propose to consider certain facts for arriving at a conclusion, however have not provided what those facts are. Thus the Authority has provided what are parameters that the Authority proposes to consider as essential fact. The Authority has therefore not provided essential facts under consideration.
- The Authority has stated with regard to MOU prices of the DI that
 - “The Authority proposed to examine the price agreeable under MOU and that realised by the DI amidst the prices offered by other sources i.e. producers/exporters from China and also other subject countries to evaluate whether the arrangement of MOU has addressed the concerns of the DI and also whether there was a need for continuance of ADD”.
- The Authority has therefore not disclosed what the comparison between MOU prices, DI prices and by non-dumped sources shows which is admittedly an essential fact under consideration and shall form the basis of final finding.
- The Authority states as follows with regard to third country imports
In the instant case, the landed values of subject goods from non-dumped sources during POI and post POI are proposed to be considered to establish possibility of any likelihood of injury by analysing price suppression effect on DI’s prices during POI and post POI keeping in view the prices of subject goods from non-dumped sources, prices from subject country of producers/exporters not subjected to an AD measure and likely adverse effect of misdeclaration of product types on sales of domestic industry (both quantum and value).
- Authority has conducted price undercutting analysis. However, the disclosure statement does not state whether there is undercutting on account of imports from subject countries or on account of non-subject countries. Further undercutting has also been worked out considering the MOU prices, however the undercutting range has not been disclosed.

- Similarly, disclosure statement contains a table of trends in costs, selling price and landed price of imports for examination of price suppression and depression. However, it is not clear whether there is suppression/depression in the present case.
 - The disclosure statement states as follows with regard to profits of the domestic industry:
 “However the Authority proposed to consider whether the ‘NSR’ has been suppressed when compared to ‘NIP’ determined for POI.
 - It is however not clear whether NSR is below NIP or above NIP. It is our understanding, considering the performance of the domestic industry, which the NIP should be well below NSR. However, we request disclosure of the same.
 - With regard to factors affecting domestic prices, the disclosure statement does not contain eventual conclusion of the analysis undertaken.
 - It is however, not clear whether POI and post POI injury margin is negative (which is our understanding about the market situation) or whether the imports had suppressing or depressing effect in post POI. These are the essential facts on which the final findings will be based. Thus we request disclosure of the same.
 - The Disclosure Statement issued suggests that the followings have been considered as facts, whereas these are either parameters or information
 - i. Trends in volume of imports in absolute terms or in relation to production or consumption in India;
 - ii. Whether the imports are undercutting the prices of the domestic industry;
 - iii. Whether the imports are suppressing or depressing the prices of the domestic industry in the market;
 - iv. Whether the performance of the domestic industry shows actual or potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; cash flow, inventories, employment, wages, growth, ability to raise capital investments, etc.
 - v. whether the ‘NSR’ has been suppressed when compared to ‘NIP’ determined for POI
 - vi. Landed values of subject goods from non-dumped sources during POI and post POI
 - vii. Price suppression effect on DI’s prices during POI and post POI keeping in view the prices of subject goods from non-dumped sources, prices from subject country of producers/exporters not subjected to an AD measure
 - Whether there is any adverse effect of misdeclaration of product types on sales of domestic industry (both quantum and value) – incidentally, on this issue, we are enclosing herewith relevant extracts from the disclosure statement recently issued by the Designated Authority in the matter of Viscose Filament Yarn (VFY), wherein the Designated Authority has held as follows –
 - (e) Circumvention of subject good by the producers from the subject country.
119. The exporter has earlier been alleged to have circumvented the subject good to India in the name of “embroidery yarn.” Further, it has been alleged that evasion

of duty continues in spite of clarifications. It is noted that evasion of duty is a separate investigation that may be addressed at the appropriate forum. The alleged act of circumvention cannot clearly establish an intention to dump subject goods in India.

- In VFY case, the Designated Authority had accepted circumvention of antidumping duty to such an extent that the Designated Authority had earlier gone to the extent of suo motu issuing clarification (which implies that the fact of circumvention was very well accepted by the Designated Authority). Despite the same, the above observation of the Designated Authority is evident.
- Interested party submits that the above do not constitute essential facts under consideration of the Designated Authority. The above constitutes only parameters or information that are relevant to establishment of facts. Thus, a reading of the disclosure statement makes it evident that essential facts under consideration with regard to injury to the domestic industry have not been disclosed in the disclosure statement. The disclosure statement therefore does not meet the requirements and obligation under Rule 16.
- It would thus be seen that disclosure statement has provided parameters that are relevant for establishment of essential facts. Thus, a reading of the disclosure statement makes it evident that essential facts under consideration with regard to injury and likelihood thereof to the domestic industry have not been disclosed in the disclosure statement. Thus we request the disclosure of such information to enable us to provide effective comments.
- Interested party requests the Authority to kindly issue a meaningful disclosure for the domestic industry to provide meaningful comments. Interested party shall be highly grateful for the above disclosures so that the interested party can offer its comments on the disclosure statement. Further, the interested party reiterates their request for an hearing and additional time for offering comments in view of several factual unresolved issues of the case and the need to appropriately bring these before the Designated Authority.
- It is evident from the disclosure document that the facts gathered by the Designated Authority clearly establishes that –

The dumping margin and injury margin is negative for M/s Lucky Huaguang Graphics Co. Ltd.

Performance of the domestic industry has improved on account of sales and production.

Profitability and ROI has declined. We submit that these are not account of dumped imports.

Third country export prices provided by the exporters shows that third country export prices are at a higher price than the export price to India.

NSR is higher than NIP.

- The Authority has not considered/examined the following issues
 - a. The import price provided by the petitioner is unreliable: One of the fundamental points raised by us was with regard to (a) import volume and (b) import price. It was contended that (a) the import volume reported by petitioner is excessively high, whereas (b) import price reported by the petitioner is excessively low. Further, we had collected import data from DGCI&S. While it is appreciated that it was only for the classification meant for the PUC, in any case, it cannot be contended that imports of the PUC in the classification meant for PUC are not even one tenth of total imports of the PUC. While it is possible that imports of the product may be reported in different classifications, it is impossible that 80-90% imports get classified under a classification not meant for PUC. In any case, the import price as per Indian Customs data is materially higher than the import price claimed by the petitioner. The issue remains unresolved. It appears that petitioner have carried their thinking about alleged mis-declaration of the product in claiming an import price which is not supported by import data. Further, the petitioner has reported imports of a product which is not product under consideration. We are enclosing herewith import data of PS plates. It would be seen that in fact these imports pertains to imports of PS plates. Thus, petitioner is misleading the Authority in believing that imports of PS plates are imports of digital plate. In any case, we submit that there is no justification for disputing the claims accepted by customs authorities. The Designated Authority will not sit on the judgement of the customs authorities. If customs authorities have accepted some import description, volume and price, the petitioner cannot request rejection of the same. One authority cannot question correctness and appropriateness of the work done by other authority. The issue is much different from what was found by the authority in the matter of Melamine wherein the authority in fact found that the DRI has rejected the declaration made to customs authorities and had collected additional customs duties. In the present case, there is no such instance of collection of duties by DRI.

Another fact which is relevant for assessment of import volume and value is that there are primarily three suppliers of digital printing plate from China – Kodak, Fujifilm and Lucky. Admittedly, Fujifilm has shifted entire volumes from China to other sources (Japan and Europe). Further, Kodak was attracting NIL rate of duty and therefore did not have any compulsion to resort to any kind of circumvention/evasion. As regards Lucky, the questionnaire response filed by Lucky has already been verified and the same clearly showed that the volume of import exported by Lucky are materially lower than the volume provided by the petitioner. Such being the case, we wonder who has imported 71 lacs sqm when there is no Chinese exporter who has supplied goods to this extent. Kodak alone could not have supplied this much volumes. In any case, Kodak has also participated in the present investigation and the questionnaire response filed by them is on record. The authority may kindly co-relate the questionnaire response filed by Kodak and Lucky to compare with the import volumes reported by

petitioner. It would readily establish that petitioner has increased import volumes exorbitantly and have reduced import price unreasonably low in order to establish their case.

- b. Import volumes reported by the petitioner is highly overstated.
 - c. Imports from other countries are at prices below the prices of subject country and are not causing injury to the domestic industry.
 - d. Imports are being made equals to the existing demand supply gap in the nation.
 - e. Raw material cost has declined thus cost of production should also have declined. The increase in cost is on account of other factors.
-
- There is no current dumping and injury as well as likely dumping and injury on account of imports from M/s Lucky Huaguang Graphics Co. Ltd
 - As is established from the disclosure statement the dumping margin and injury margin on exports from M/s Lucky Huaguang Graphics Co. Ltd is negative. Further, upon directions, the exporter had provided post POI export information as well. It would be seen that the dumping margin in POI as well as Post POI is negative. The Authority is requested to kindly consider post POI data provided by M/s Lucky Huaguang Graphics Co. Ltd. Thus, the exports from M/s Lucky Huaguang Graphics Co. Ltd is not causing any injury to the domestic industry nor is likely to cause injury to the domestic industry in the event of cessation of anti-dumping duty.
 - No injury to the domestic industry
 - It is reiterated that there is no injury to the domestic industry, and injury, if any, is on account of other sources.
-
- i. Sales, production and capacity utilization of the domestic industry shows significant improvement.
 - ii. The market share of subject imports has increased and that of domestic industry has declined. However, since the domestic industry does not have sufficient capacity to meet the domestic demand and thus the decline in market share is natural.
 - iii. As per the disclosure statement, as against the claim of positive undercutting by the domestic industry, undercutting is negative for Thermal digital plates and there are no imports of violet digital plates. It is emphasized here that M/s Lucky Huaguang Graphics Co. Ltd has exported only thermal digital plates.
 - iv. The price suppression/depression is not on account of imports.
 - v. The domestic industry has been earning profits throughout the period. Subject goods are incurring benchmark form of duty, thus imports cannot enter at a price below the level of benchmark fixed. Thus any alleged injury cannot be caused by the subject imports. The reason for decline in profits is thus not subject imports, but the MOU. Further, as regards the contention that antidumping duties are being evaded in the form of importing goods after declaring them as PS plates, as stated earlier, this issue is a customs issue and extension of anti-dumping duty is not a correct remedy and the petitioner should go to the appropriate forum.

vi. Inventory with the domestic industry has shown marginal increase.

- Disclosure statement issued suggests that there are no factor that established or even remotely indicate likelihood of continuation or recurrence of dumping and injury. The dumping margin and injury margin is negative. It is also seen that third country exports are at higher prices. Thus, it can be fairly assumed that there is no likelihood of diversion of exports and that too at dumped and injurious price in the event of cessation of anti-dumping duty.
- The petitioner has not substantiated any grounds on likelihood of dumping and injury and has at some places referred to incorrect judgments/evidences. The detailed submissions made in the written and rejoinder submission is referred and is not repeated herein for sake of brevity.

(v) APJ-SLG Law offices representing M/s FUJIFILM Printing Plate (China) Co. Ltd. (FFPS), FUJIFILM (China) Investment Co., Ltd. (FFCN) and M/s FUJIFILM India Private Limited (FFIPL)

- It is noted from the disclosure statement that dumping margin for one of the exporters, i.e., M/s Lucky Huaguang Graphics Co Ltd, has been negative. In this regard, we humbly request the Authority to kindly exclude the exports of M/s Lucky Huaguang Graphics Co Ltd while doing the injury analysis in accordance to the Anti-dumping Rules.
- With regard to para 30 of the disclosure statement, it is stated that it is evident from the above-mentioned analysis of the Authority that the Domestic Industry is expecting to attain unreasonable profits on the Product under Consideration. It seems that the concern of the Domestic Industry is not the injury caused by the alleged dumped imports but their unreasonable expectation of earning huge profits. It is also clear from the above that the NIP has been lower than the net sales realization of the Domestic Industry, meaning thereby, that the Domestic Industry is already recovering prices higher than the NIP. The Designated Authority has held that in sunset review cases, the mere existence of dumping is not enough when the same has not caused any material injury to the Domestic Industry. The same position also emerges from various recently concluded investigation including the Anti-Dumping Investigation concerning imports of Caustic Soda originating in and exported from Japan and Qatar (F. No. 14/31/2015-DGAD, dated 10.01.2018), Sunset Review of Anti-dumping duty imposed on the imports of Nylon Filament Yarn originating in or exported from China PR, Chinese Taipei, Malaysia, Indonesia, Thailand and Korea RP (F. No. 15/17/2016-DGAD, dated 05.01.2018) and various other findings of the Authority. It is humbly submitted that there is no reason for the Authority to deviate from the established position of terminating the investigation in cases where the Domestic Industry's prices are above their NIP.
- The Domestic Industry should have given sufficient information to the Hon'ble Authority regarding the percentage of transactions that happened under the MOU

and the percent of transaction outside the MOU to enable it to examine the impact of these MOU and non-MOU transactions of the Domestic Industry on their overall pricing.

- The Domestic Industry should at least disclose the pricing methodology or formulae under the MOU, if not the agreed pricing itself. In the absence of such information, we are not in a position to offer our comments on the effect of the MOU on the prices of the Domestic Industry. It may be recalled that the interested parties during the hearing had categorically stated that there is nothing confidential about the MOUs. In this context, please refer to our comments in the rejoinder statement dated March 19, 2018, para 8.

- The Authority's analysis in para 31:

“The Authority also notes that price of these two product types remained immune from the exports by Kodak did not have an AD measure and that Fujifilm also supplied both Thermal and Violet types from their other production plants in EU and Japan....”

The above analysis of the Authority clearly proves that there is no injurious effect of the imports on the performance of the Domestic Industry. Further, since the Authority has already come to the conclusion that the prices of the two main components of the Product under Consideration, i.e., thermal and violet plates are immune from the imports, it follows that there is no likelihood of the injury to the Domestic Industry as well.

- In view of para 32 of disclosure it is noted that there has been no price suppression/depression by the imports. This fact, coupled with the fact that the Domestic Industry's net sales realization has been above their NIP, completely shatters the claim of the Domestic Industry regarding any existing injury to them on account of imports.
- With regard to demand and Market share, we reiterate that the share of the Domestic Industry in demand has decreased only due to their limitations with respect to their capacities as they have not been able to cater to the increasing demand. The Authority would appreciate that the share of Domestic Industry in demand has solely been affected due to their inability to meet the market demand with their existing capacities. This fact also gets strengthened from the fact that they have been consistently operating above the capacity utilization of 95%.
- With regard to the para on import volumes and share of subject country we reiterate that the increase in imports volume has solely been on account of the inability of the

Domestic Industry to cater to the increasing demand. With the stagnant and limited capacity in the ever-increasing market, the Domestic Industry has not been able to cater to the increasing market demand. Therefore, as opposed to the narrative of the Domestic Industry, the increase in imports has been an absolute necessity. This contention also gets proved by the fact that there has been increase in imports from non-subject countries as well.

- It is clear from the analysis carried out by the Authority in para 32 that there has been no suppressing or depressing effect of the imports from the subject countries on domestic selling prices. It is submitted that the absence of suppressing/depressing effect of the imports on domestic selling prices is a robust indicator that there has been no injury to the Domestic Industry from the alleged dumped imports.
- It is clear from the analysis carried out by the Authority that price undercutting and price underselling has been negative with respect to Thermal plates which constitutes the bulk of the market demand. That being the case, it is reasonable to assume that there is no likelihood any price pressure on the other two types of plates also.
- It is clear from the examination of the Authority that the Production, capacity utilization and domestic sales volume of the Domestic Industry has increased over the injury period. Clearly, there has been no injury to the Domestic Industry on account of these parameters as well.
- The market share in demand of the Domestic Industry has declined. However, as already been established, the decline is solely on account of the inability of the Domestic Industry to keep-up with the growing market demand. The indices relating to injury also show more or less same trend throughout the injury investigation period.
- It is submitted that it is clear from the examination carried out by the Authority that almost all the parameters relating to injury have shown improvement in the injury investigation period. Although, there have been few dips too with regard to certain indices, the same do not have any nexus to the imports from the subject countries. Further, the fact that the injury margin is also negative with respect to the imports from China, proves that there has clearly been no injury to the Domestic Industry from the alleged dumped imports.
- From the examination of the Authority on the basis of the facts on record, it is clear that there is no likelihood of continuation or recurrence of dumping or injury to the Domestic Industry from the imports of subject goods from subject country. Further, the absence of dumping and injury rules out the possibility of any current dumping or consequent injury.

- In regard of DA's resending in para 68, it is submitted that Fujifilm as a group has always priced their products in line with the prevailing international prices and the prices offered by the Domestic Industry. We further submit that the Domestic Industry has miserably failed to establish that there is any nexus between their price realization and the import prices.
- With regard to the observation of the Authority in para 15 regarding the imports made by Domestic Industry, we humbly submit that our contention with regard to the imports by Domestic Industry was not in relation to the standing of Domestic Industry. We would request the Authority to kindly examine this issue in the context of our claim that the Domestic Industry has not been able to cater to the increasing demand in the Indian market and had no choice but to import from other non-subject countries. It is also pertinent to note that the imports were admittedly of the PUC only as the Domestic Industry has not made out any case with regard to the non-substitutability of the imported variants and the domestic products.
- As regard the observation of the Authority regarding "ability of the Domestic Industry to raise capital investment", we submit that in the absence of any submission in this regard by the Domestic Industry, the Authority has to conclude that there has been no injury to the Domestic Industry with respect to this mandatory parameter. The Authority would appreciate that it cannot leave a mandatory factor unexamined merely because there has been no comment by parties with regard to that parameter. Further, it is for the Domestic Industry to provide information regarding the mandatory parameter and the onus cannot be shifter to the responding parties. We request the Authority to kindly record that there has been no effect on the ability of the Domestic Industry to raise capital investment.
- We further submit that from the facts on record and the analysis carried out by the Authority in the disclosure statement, it is clear that there has been no injury to the Domestic Industry during the injury investigation period. Further, it is also clear that there is no possibility to even assume that there is any likelihood of recurrence or continuation of dumping and injury.
- We request the Authority to kindly terminate the investigation and the existing duties and hold that there has been no dumping or consequent injury to the Domestic Industry and there is no likelihood of continued dumping and injury as well.
- We also request the Authority to let us know in case there is any material change in the facts recorded and the views expressed in the present disclosure statement. We would request that in such a situation, we should be allowed to make our comments on such changed views/data before the issuance of Final Findings.

(vi)M/s DUA Associates on behalf of M/s Kodak China Graphic Communication Co. Ltd. (“KCGCCL”), M/s Kodak China Investment Co. Ltd. (“KCICL”) and M/s Kodak India Pvt. Ltd. (“KIPL”)

- Kodak has participated in the present investigation and duly filed response to the Exporter’s Questionnaire, Sunset Review Questionnaire and Market Economy Treatment (‘MET’) Questionnaire. In addition to the above, Kodak has also filed importer’s questionnaire response and furnished information (including information concerning KIPL’s resale price to unrelated customers, data concerning post POI, etc.) sought by the Authority.
- In the Disclosure Statement issued on April 09, 2018, the Authority has determined a negative injury margin for Kodak in range of (0-10) percent and an individual dumping margin for KCGCCL as a producer and exporter of subject goods. Accordingly, in terms of the lesser duty rule, it has been determined that imports from Kodak have not caused any injury to the Domestic Industry.
- It is also pertinent to note that the Authority (in the original investigation) has determined negative injury margin qua Kodak and not recommended anti-dumping duty. Therefore, in view of the findings in the original investigation and determination of negative injury margin in the instant review investigation, no reference price duty for Kodak is required to be recommended.
- During the course of the present investigation, Kodak has filed detailed injury submissions, oral hearing written submission, rejoinder submissions, etc. The said submissions filed by Kodak to be considered part of the comments to Disclosure Statement and the same are not repeated herein.
- The Authority has incorrectly determined that aluminium price at shanghai metal exchange is not representative of actual cost: Kodak has submitted all information in the questionnaire response as per the MET Questionnaire. The said information was complete and also verified by the Authority during the on-spot verification as well as prior to the issuance of the Disclosure Statement. It is also pertinent to highlight that during the on-spot verification of MET Questionnaire Response in China, the verification team had specifically verified aluminium prices at London Metal Exchange, Shanghai Metal Exchange and Kodak’s domestic procurement prices. On the basis of said verification, the Authority (in the verification report) has duly recorded that ‘KCGCCL has submitted a comparative graph for KCGCCL purchase price and price prevalent at London Metal Exchange and Shanghai Metal Exchange. It was claimed by the KCGCCL that purchase price are comparable with international price’.
- From the verification report issued by the Authority, it is undisputed that the Authority had verified the prices for aluminium at Shanghai Metal Exchange,

London Metal Exchange and Kodak's procurement price, as submitted by Kodak. However, the Authority in the Disclosure Statement has not examined the data verified during on-spot verification and has further not elaborated the reasons for rejection of SME and LME prices submitted by Kodak and verified by the Authority during the verification.

- In the Disclosure Statement, the Authority has compared LME premium price with SME current aluminium prices (after VAT deduction). It is accordingly submitted that the said comparison is not conducted on an apple to apple basis. It is also pertinent to note that LME premium aluminium price relates to future contracts whereas the Shanghai Aluminium prices (as taken by the Authority) were current transaction price, after deduction of VAT. Therefore, LME premium price are not comparable to SME aluminium price (after VAT deduction).
- It is necessary to highlight that the LME website specifically differentiates premium price and current aluminium price. To further authenticate the above submissions, Kodak is providing the extracted information available at LME website which illustrates the said difference.
- The LME aluminium premium prices are substantially above LME current aluminium prices, on account of premium being charges on premium contracts and therefore, the two are not comparable. Similar to the above, LME aluminium premium prices are not comparable with SME current aluminium price (after VAT deduction), as considered by the Authority in the Disclosure Statement. It is submitted that LME aluminium premium price and SME current price (after VAT deduction) are not at same level of trade and therefore cannot be compared.
- The Authority is also requested to note that London Metal Exchange reflects four different categories of premium aluminium price which are based on different specifications.
- It is evident that LME has levied premium charges based on each category of a premium contract. However, the Authority in the Disclosure Statement has not disclosed the category of premium contract and LME aluminium premium prices considered relevant for the comparison with SME aluminium price.
- It is reiterated that LME premium price is not comparable to SME current price (after VAT deduction). Therefore, the Authority is requested to re-evaluate Kodak MET status by comparing LME current aluminium price (excluding VAT @ 18 %) with SME current aluminium prices (after VAT deduction), so as to conduct apple to apple comparison and to arrive at a fair determination. Additionally, the Authority is requested to disclose the category of LME premium contract and the aluminium

prices considered for the comparison with SME aluminium price, considered in the Disclosure Statement.

- Authority has incorrectly relied on investigation conducted by United State in terms of section 232 of Trade Expansion Act:

While rejecting the MET status claim for Kodak, the Authority has noted that ‘the recent determination by US under Section 232 of the Trade Expansion Act has highlighted the prices of Aluminium in China being not representative of market forces’. However, it is submitted that the said Section 232 Report categorically notes that ‘an investigation under Section 232 looks at excessive imports for their threat to the national security, rather than looking at unfair trade practices as in an antidumping investigation’. Therefore, the object of an investigation under Section 232 of the Trade Expansion Act is to examine surge in imports and impact thereof on the national security. In view of the above, the reliance of the Authority on Section 232 Report for the present investigation is misplaced.

- Even assuming arguendo that aluminium purchase price in China were not determined by market forces, the Authority ought to have adjusted the KCGCCL’s cost of aluminium, to the extent of difference between KCICL purchase price and aluminium price in market economy third country. However, the Authority in the Disclosure Statement has rejected the entire MET response filed by KCGCCL despite having verified the data concerning cost of production etc. In this regard, it is pertinent to state that the Authority has not rejected the entire questionnaire filed by Lucky (who has failed to file and verify crucial information) and applied facts available to the extent required for determination of individual dumping margin. Accordingly, the Authority ought to have considered the same methodology for other interested parties and should have determination of Normal Value for Kodak, based on its cost or domestic selling price, with necessary adjustments on account of aluminium price.
- The Authority has revealed business proprietary information filed by Kodak on a confidential basis to Lucky Huaguang Graphics Co. Ltd (‘Lucky’).

There is no dispute that KCGCCL is the sole co-operative exporter which has provided complete information concerning post factory expenses. This business proprietary information however, has been used by the Authority for determination of Ex-Factory Export Price/Dumping Margin for Lucky. It is submitted that the Authority has provided Kodak’s confidential information concerning post factory expenses to Lucky in confidential Annexure II (a) of the Disclosure Statement. Kodak hereby requests the Authority to not share such proprietary information without seeking prior permission from the interested parties.

- The Authority has incorrectly adopted KCGCCL's data for determination of Lucky's Ex-factory export price for the reasons stated below:

In terms of Section 9A (6A) of CTA, the dumping margin for responding exporter can only be determined on basis of the records maintained by such responding exporter. Therefore, information of one co-operative exporter cannot be adopted for determination of dumping margin for another exporter who has failed to provide/verify such information.

- The factual matrix of the investigation unambiguously confirms that KCGCCL is located near the port of shipment and incurred nominal freight and other post factory expenses for export of goods to India. On the contrary, Lucky is located in landlocked area far from the port of lading. Accordingly, Lucky is likely to have incurred very high post factory expenses for exporting goods to India.
- Since Kodak's information has been made available to other exporters, we request the Authority to withdraw the said confidential disclosure statement (issued to Lucky) with an undertaking from Lucky (and their legal representatives) to destroy the said information, so as to avoid misuse or dissemination of the same.
- Kodak has filed information concerning exports of goods to India on confidential basis and the said confidential information was made available to opposing parties by DGCI&S, with the approval of the authority:

In terms of Rule 7 of AD Rules, the information filed by any interested parties on confidential basis cannot be disclosed by the Authority. However, the Authority has allowed opposing interested parties to collect/procure the said confidential information in form of transaction wise data from DGCI&S. Please note that transaction wise import data discloses the entire description of imported goods, volume of goods as well as the import value. Therefore, the information filed by Kodak on confidential basis was disclosed to opposing parties with permission of the Authority.

- In addition to above, it is pertinent to note that TechNova has admittedly used the said information and also filed the summary of the same in the public file. Therefore, the confidential information filed by Kodak was made available to TechNova and subsequently to other interested parties who have inspected the public file (including Lucky and FujiFilm).
- In this regard however, Kodak also wishes to highlight the noting of the Authority at paragraph 34 of the Disclosure Statement. After the confidential data relating to imports by KIPL was provided to Technova, the Authority had sought information from Kodak regarding one entry concerning import of 'Libra' plates by KIPL against

Invoice No. ***. Kodak had accordingly submitted all information relating to Invoice No. *** with the Authority. However, since the DGCI&S data categorically mentioned the import of 'Libra' plates, Kodak has once again sieved through its entire data and found a small quantity of Libra plates imported during the POI against Invoice No. **. It is submitted that the Invoice No ** is a manual invoice raised by KCGCCL for sending sample plates for trial purposes of India. The said transaction was not a commercial transaction and was only imported into India as a sample for testing purposes and nothing else. The same can be confirmed by the insignificant value of the said invoice which is merely INR ** only when compared to the total import value and the quantity imported by KIPL. It is pertinent to highlight that KIPL has not paid any consideration for the said sample imports. It is also submitted that Kodak SAP system has a constraint of reporting only 10 digit invoices and since the present invoice had an added suffix "-1" (being a manual free of cost invoice for testing purpose), the same did not reflect in KIPL's system. It is submitted that the said transaction of a nominal value is the only transaction concerning Libra plates during POI.

- The authority should not allow filing of submissions at much belated stage as evident from the public file, TechNova has filed the summary of imports and other relevant data on April 5, 2018 i.e. two working days prior to issuance of present Disclosure Statement. It is submitted that filing of such crucial information by TechNova at the end of the investigation has disallowed opposing interested parties including Kodak to make appropriate comments/submissions prior to the issuance of the Disclosure Statement. Therefore, the Authority is requested to take appropriate measures to disallow filing of any further information/data/ documents in the investigation.
- Technova has concealed information sought by the authority in application proforma and the same was disclosed only in the disclosure statement: From the perusal of the Disclosure Statement, Kodak was surprised to note that TechNova has imported substantial quantity of subject goods during the POI. However, the said information was concealed from the Authority and other interested parties despite the same being specifically sought for in Part II of the application proforma:
- 6. (a) Do any of the petitioner(s) import the subject goods. If yes, please provide details of country-wise volume and value of imports during the last two years and in the current year to date.
- In reply to the aforesaid question, TechNova merely stated that 'the Petitioner has not imported the product under consideration from China PR'. However, as per the questionnaire, TechNova was required to disclose import of subject goods from each country (both from subject country and non-subject country). Therefore, the anti-dumping application should be rejected on this count alone.

- Determination of dumping and injury during POI & post POI period:

The Authority has not determined a Dumping or Injury Margin for Fujifilm since the said exporter did not export the subject goods from subject country during the POI. The authority has also not determined a residual Dumping and Injury margin for non-responding exporters. We request the Authority to disclose the said residual dumping and injury margin for FujiFilm and other non-responding exporters in terms of Anti-Dumping Rules.

- The Authority has also noted that there is no likelihood of any injury during the Post POI period qua goods exported by Kodak. Further, the Authority has dealt with the likelihood of dumping and injury for FujiFilm, based on third country exports. However, no determination is made for other participating exporter i.e. Lucky. Accordingly, the Authority is requested to determine likelihood of dumping and injury as per the relevant legal provisions.

(vii) M/s Nippon Color

- ADD not to be imposed on Plates which are not manufactured by the DI:
 - a. The Domestic Industry does not manufacture all types and sub-types of Digital Printing Plates such as Processless Thermal/CTcP/Violet plates.
 - b. All the Digital Plates of thickness of 0.25 mm, which is not manufactured by the DI should also be exempted.
 - c. Double Layer UV CTcP Digital Plates and Negative working UV CTcP Digital Plates are also not manufactured by the DI and should fall out of purview of ADD.
- There is nothing to suggest that the DI is manufacturing any of these plates and thus imposition of ADD on such plates, which are not even manufactured in India and thus do not cause any kind of Injury is improper and illegal. Such imposition of ADD on goods, which are not even manufactured in India is not permissible in Law. These cannot even be considered as goods akin to the dumped articles either as identical or similar goods. There has to be causal link between the dumped imports and the injury to the DI. When these goods are not at all manufactured by the DI, then the question of injury and Causal Link does not arise.
- The Tribunal Decision in the case of Indian Refractory Makers Association Vs DA [2000(119)ELT319] and Gypsemna Co LLC Vs DA [2016(342)ELT566], refer.
- It is further stated in Para 15 of the Disclosure Statement that the DI itself had imported Processless and Chemical Free plates from their technical collaborator in the EU of the complainant, which clearly indicates that these are not manufactured by the DI. When these are not manufactured by the Complainant, then rejecting the argument that these should be kept out of ADD is not proper. The fact is that the goods are being imported from their Technical Collaborator, who is a related party

and does not sell to other unrelated importers in India is itself a restrictive market condition. To state that 8 Lakh Sq Mtr has been imported for 'test marketing' is clearly false and misleading, but it does point out that these are new technological products, which is the future of the Printing Industry and hence ought to be kept out of imposition of ADD. Technology has changed in the period between the first ADD investigation and the present investigation, which is not being taken cognizance of.

- Hence Para 10 of the Disclosure Statement is not in accordance with the law laid down in terms of the Customs Tariff Act, 1975, is in fact protecting imports made from related parties in terms of Rule 2(2) of the Custom Valuation Rules, 2007 and is not in essence with the technological changes that have taken place in the past five years. When the industry does not have the capability to make these sub-types of specialized plates, clubbing of the same with generic types of Printing Plates is incorrect.
- The whole production is being sold and there is plans for expansion of capacity:
The Disclosure Statement and the Oral Hearing proceedings indicate that the whole of the production is being sold and there is no carried out over unsold stocks by the DI. It was further submitted that the DI is expanding capacity to cater to the markets and a new manufacturer is also entering the market. Had the case been of dumped imports, then there would not be any capacity expansion, since Anti-dumping is never envisaged as a continuing affair for all times to come. The DI has to come up to the price and standards of the foreign suppliers. It is submitted that DI has been given enough time and financial incentive to gear itself up to face to the market challenges and accordingly, the ADD ought to be discontinued.
- ADD should be based on the formula of cost + profit:
The Hon'ble Supreme Court in the case of Ujagar Prints Vs UOI had held that the cost of goods manufactured on Jobwork basis should be cost of Raw Material + Manufacturing Cost + Profit. The same formula ought to be applied and since the DA has found that the prices on Shanghai Metal Exchange are not truly reflective of the International Prices, the DA could take the LME price of Aluminum Sheets and give a Percentage Formula to be added by the Customs Officials at the port of Import. Hence, the DA should give ADD as a formula to be adopted by the Port Custom Officials instead of a fixed quantum of ADD, which is totally unrealistic and is not reflective of the true cost of production of the said goods.
- The so called User Industry represented only by Hindustan Times & Dainik Jagran made a strong pitch for continuation of the ADD, by adding that the major cost factor for them is Newsprint (Not Printing Plates!!!!). Two newspapers do not make up the whole industry, since India is home to more than 500 daily Newspapers, which is itself a world record. Hence the views expressed by them, colored by the fact that

they have entered into supply agreements with the complainant, makes their submissions suspect and unworthy.

- The Printing Industry in India has evolved over the decades especially after the advent of Computerization. It is not made solely of the Newspaper Industry, which is a small segment of the printing industry. The major user industry is the advertisement Industry, Stationery industry, publishing industry etc. They have not given their views nor are their views solicited by the DA. They being an important user industry for their printing costs, it is imperative that the DA consider their viability as well.
- The DA should not take cognizance of the submissions of a minor segment of user industry and take a view taking the whole Indian Economy into consideration.
- The Disclosure Statement clearly indicates that the Complainant also indulges in Export of his products. That being so, the DA ought to examine whether the price at which the goods are being exported are comparable to the NSR of the Complainant and the landed cost of the PUC from the subject country. During the course of submission of evidences, we had submitted that the landed cost of UV-CTcP from third countries, which are market economies, is only US \$ ***/Sq Mtr and hence the ADD ought to be fixed to bring the landed cost of the goods from the subject country to about US \$ ***/Sq Mtr.
- We had also submitted evidences of imports from Vietnam, where the import duty rate is Zero. The price of the goods therein is slightly higher than that from China but the same can also be adopted as a benchmark price for calculating the Nip after deducting ***% from the said price towards duty element.
- WE had in our written submissions had pointed out various errors in the calculations made by the DI in its workings, which are contradictory to each other and result in absurdity. The Disclosure Statement does not indicate that the said errors pointed out by us has been taken into consideration and the calculations have been reworked accordingly.

Examination by the Authority

71. The Authority has examined submissions made by various interested parties in response to the disclosure statement as under. Also some submissions have been mentioned in foregoing paras as well.

- (i) As regards grant of market economy status to M/s Kodak, the Authority notes that as per the Anti-Dumping Rules, the Authority has to ensure that state interference does not impact the market signals. Aluminium is one of the major raw materials of the product under consideration. The Authority notes that Kodak has claimed that the

Aluminium prices were verified on spot by the team both of Shanghai future exchanges and London metal exchange.

- (ii) The Authority holds that while data submitted by the exporter was verified onsite, its analysis and final determination of exfactory export price was disclosed on a confidential basis along with the facts related to market economy status were disclosed in the main disclosure statement, the non-confidential version. The Authority has in the foregoing para of normal value clarified regarding state interference which does not support the claim of M/s Kodak for market economy status.
- (iii) The Authority notes submissions made by Kodak to adjust the aluminium price appropriately and accept Kodak's data to construct 'Normal Value' the way Authority has adopted Lucky's data on export price adjustments. The Authority holds that both Fuji and Lucky have not claimed Market Economy Treatment status and 'CNV' as per consistent practice has been computed for Lucky. As regards export price of Lucky while the export price was verified onsite and accordingly the landed value was computed, the adjustments on export price not established with credibility have been considered on the basis of consistent norms adopted by Authority which is different from constructing 'CNV' in event of Market Economy Treatment not being accorded to a producer/exporter. The Authority has considered a common 'CNV' for all cooperating producers/exporters in a situation of Market Economy status not having been granted.
- (iv) The Authority notes submissions by M/s Kodak regarding its confidential data on adjustment having been shared with M/s Lucky and also that through availability of DGCIS Transaction wise import data to requesting interested parties by virtue of figuring of brand name of Kodak in the product description the confidentiality of its data has been eroded. The Authority holds that it has considered certain adjustments for export price as per its consistent norms and for one of the adjustments i.e. ocean freight the adjustment of Kodak has been appropriately correlated with the average amount as per other cases. This correlation has in no way compromised any data confidentiality of Kodak. As regards DGCIS transaction wise data, the Authority holds that it follows a non-discriminatory policy for making available such data to all Interested Parties in an investigation including Domestic Industry. In some cases, the product description may contain brand name of the exported product. 'DGCIS' converts the raw import data to an NCV form by removing name of importer and its identity number. The Authority notes that transaction wise data of imports till November 2016 was being collated by a number of private agencies other than DGCIS also who were also making available similar data to all Interested Parties on commercial terms which was being used by various Interested Parties as a secondary source evidence in Anti-Dumping investigation. This data was being collected by all Interested Parties without any authorisation of DGAD. Post discontinuation of data sharing by field offices of customs with such private agencies, the Authority has been authorising all requesting Interested Parties to obtain transaction wise import data of non-confidential nature from DGCIS. The Authority holds that since the producer/exporter did not raise such concerns earlier in the original investigation when private agencies were making available such data and also during the currency of measure, the Authority cannot be expected to address at a stage of post disclosure the alleged erosion of confidentiality. The Authority has protected confidentiality of all

data filed by Kodak to DGAD on a confidential basis which is the prime responsibility and obligation of the Authority.

- (v) The Authority notes that M/s K & T Law offices has highlighted Domestic Industry being a monopoly, not representative Domestic Industry, claim of high confidentiality, lack of causality and not making the verification reports available to them and holds that the confidential verification reports are shared only with the concerned interested parties and not with others. The confidentiality has been granted to all Interested Parties as per the provisions of AD Rules and that analysis of injury and causality has been undertaken by Authority on various stipulated economic and financial parameters.
- (vi) As regards submissions by Nippon Color to exclude certain categories of plates from the scope of PUC, the Authority notes that the scope of PUC has been kept the same as was in original investigation. There has been no expansion nor a deletion in the same.
- (vii) As regards Designated Authority not providing opportunity to group of users other than newspaper, the Authority holds that the conduct of investigation was well known to all interested parties and it is up to the concerned interested parties to participate. As regards submission that data and information of Domestic Industry available to other Interested Parties through public file and NCV exchanges should be verified, the Authority holds that it has verified the data filed by Domestic Industry and other Interested Parties appropriately to the extent considered necessary.
- (viii) The Authority notes the submissions by M/s TPM regarding non-disclosure of essential facts in disclosure and submissions by other interested parties on the disclosure and holds that many interested parties have made substantive submissions in response to the disclosure. The Authority on the basis of response to the disclosure holds that it has disclosed all appropriate essential facts/parameters which it would rely upon in the final findings. However any submission made by an interested party which has got inadvertently missed out in the disclosure as part of essential fact to be considered, the Authority has in this finding considered the same.
- (ix) The Authority notes the submissions by M/s TPM on inaccurate data reported by Domestic Industry on UV-CTC Plates imports, submissions of Domestic Industry on misdeclaration, compensatory mechanisms adopted by M/s Lucky and M/s Kapoor Imaging and other importers on import of UV-CTC plates being classified as analog plates and DRI's investigation on the same. The Authority notes that misdeclaration of an article being imported is not a phenomena which needs to be addressed in an SSR or even MTR investigation since it concerns due diligence to be adopted by the Custom Authorities who are required to clear imports under the correct ITC HS and nomenclature and applying liable custom duties viz. Basic or Anti-Dumping/Countervailing/Safeguard Duty as would be applicable. Any imports which fall within the scope of an Anti-Circumvention investigation as contained in the Anti-Dumping Rules requires Domestic Industry to file an appropriate petition for the same. In the instant case, the imports of UVCTP plates have been misdeclared as has been also in certain cases confirmed by Customs field offices. The erosion of efficacy of an AD measure through such a misdeclaration can happen for any product, at any time in

any trade remedial measure put in place. The remedy for this lies with the Authority implementing the application of such a measure.

- (x) The Authority notes the submissions by M/s APJ-SLG representing Fuji Film group (China) regarding no injury to Domestic Industry nor any likelihood, inability of Domestic Industry to cater to demand and losing in market share which is evidenced by their imports from European Union. The Authority has considered all these aspects and recorded its finding on various injury parameters. As regards ability to raise capital, the Authority holds that in view of its conclusion of stable economic parameters of domestic industry, the ability to raise capital is also not impaired. As regards undertaking analysis for transactions under 'MOU' and outside MOU, the Authority holds that MOU price is a mutually expected price between Domestic Industry and major proportion of user industry and 'NIP' is what Authority establishes as per AD Rules. The Authority has analysed the actual NSR realised keeping in view the MOU determined price, NIP and landed values. The Authority considers that under the facts of the case, data available is quite sufficient to establish injury and causality for the same.
- (xi) The Authority notes submissions by the Domestic industry regarding injury to Domestic Industry and likelihood of its continuance. In this regard the main submissions of Domestic Industry have been excessive surplus capacity of PUC with Chinese producers, their high export orientation, export prices of Lucky to countries other than India, declining prices of Kodak in post POI, likely shifting of Fujifilm's exports from Japan and EU to China in event of withdrawal of Anti-Dumping Duty, significant misdeclaration of UV-CTC plates as analog plates supported by evidence of China Customs export data, reports of Customs field offices/DRI etc. The Authority notes as under
- (xii) The Domestic Industry has entered into a Memorandum of Association (MoU) with All India Federation of Manufacturers Association which covers a large number of associations. The 'MoU' stipulates the price formula of digital plates linked to Aluminium prices and to cover other costs. The user industry has agreed to support the Domestic industry by ensuring that they would not oppose Domestic Industry in seeking their legal remedy to combat unfair trade practice of dumping from China. The user industry has provided support towards this and even in their response to the Disclosure statement as well.
- (xiii) The support by user industry indicates that 'MoU' conditions are being fully honoured by both the parties. The MoU does not contain any provision wherein the Domestic Industry is to match its selling price with the unfair dumped prices as the MoU has been entered into only to establish prices based on a mutually agreed pricing formula acceptable to both sides and linked to the import price of Raw material and other costs and not to other prevailing dumped prices. The Authority notes that for thermal and violet plates, the 'landed values' during POI are above 'NIP' for both POI and post POI. The Domestic prices has been able to realise domestic prices above the 'NIP' in POI and also in post POI even though they are lower than landed values. The prices as determined through the 'MOU' formula are higher than the NSR attained. The Authority holds that DI's claims that they could not attain full prices determined under MOU because of dumped landed prices is not justified as the price setting under

'MoU' has no connect with the dumped prices as the MoU has only been entered to mitigate this unfair practice. In case of any of the two parties having being unsatisfied, the MOU would have been terminated, which is not the case. Further Since DI's 'NSR' being lower than LV's is still above respective 'NIP', the threat of low LV's leading to price underselling and consequential injury is not tenable.

(xiv) As regards 'violet' plates imports, the Authority in the disclosure has stated that Kodak has exported thermal plates only in POI and that there has been no imports of violet plates during POI which has been agitated and represented by Domestic Industry again. The Authority on a reconsideration and further analysis and response to disclosure made by Kodak, notes that a single bill of entry in DGCIS data which evidences violet brand name, is reported at a granular level (invoice wise) in DG-Systems data. The clubbed quantity indicated as 22098 sqm as violet in DGCIS is in fact only 201 sq. m. of violet category at a Landed Value of Rs. ***/sqm for which Kodak has provided evidence to have imported it on a sample trial basis. The 'Landed Value' of this violet category broadly correlates with the 'Landed Value' claimed by DI on DGCIS data basis. Authority has adopted the 'landed value' as per Kodak's import evidence for its conclusion reported above. Further the Authority also notes that landed export prices of Thermal plates by Fujifilm from its plants in European Union and Japan during POI and post POI are above the 'NIP' and those of violet are slightly below the 'NIP'. The prevalence of these level of prices have not impacted the price realisation of Domestic Industry for these two plates. Keeping in view the fact that customers have paid such prices, in event of diversion of exports of Fujifilm from China, the existing 'MOU' of Domestic Industry with the user industry would provide the similar buffering to the Domestic Industry against unfair trade if it resurfaces. The current price trend by Fujifilm does not indicate a likelihood of recurrence of injury to Domestic Industry. The post POI landed value of Thermal and violet plates exported by Kodak to India has been correlated with the DGCIS data and is noted that the landed values of Kodak for both Thermal and Violet plates evidence negative Injury Margin during POI. In post POI, the Landed Value of violet plate prices is slightly lower than its NIP, but as these are resold by Kodak India after incurring SGA and a mark-up, these imports are not liable to create price underselling effect. The 'NSR' realised by Domestic Industry for both Thermal and violet plates validates this conclusion. Therefore, despite surplus capacities, and export orientation of Kodak and Fujifilm and the overall import trend the Authority holds that there is no likelihood of any injury for these 2 category of plates i.e. Thermal and Violet from China in event of withdrawal of ADD. The export prices of Lucky during POI and post POI of thermal plates are also noted to be non-injurious.

(xv) The Authority also notes submissions by Domestic Industry to reject the response filed by Lucky on the basis of evidence of misdeclaration made by them in description of export product as per China Customs data and his counterpart importer M/s Kapoor for not filing Appendix 5 and 6 on the resale price of imports. It has been claimed that a compensatory arrangement has been entered into by the exporter and that his export price of Thermal Plates is also not credible. The Authority holds that any misdeclaration of goods would require the Custom Authorities to undertake appropriate and diligent administration and such an issue is not under the purview of DGAD. As regards response filed by exporter, the same was verified onsite and prices of Thermal Plates have not been questioned by the Custom Authorities. The Authority has satisfied itself on the resale made by M/s Kapoor of the PUC during POI which

has been above the purchase price on an average basis with some transactions being at loss and some at profit. Further there has not been any conclusive evidence or determination on any compensatory arrangements between different product types on account of mis-declaration by the concerned agencies. The Authority notes that the 'NSR' realised by Domestic Industry in POI and post POI for UV-CTC plates have been lower than as determined by MOU. This is similar to what is witnessed for Thermal and Violet plates. The 'Landed Values' of UV-CTC plates as unambiguously defined in DGCIS data and those which appear to be UV-CTC plates but are declared as analog plates quite comparable and lower than the 'NIP' both in POI and post POI. The 'NSR' of Domestic Industry is however much above the 'Landed Values' in POI and Post POI thereby indicating that 'Landed Value' of these plates is not depressing the prices of Domestic Industry in this category and that if realisation determined under MOU was fully attained, it would not cause any injury to Domestic Industry. The provisions of MOU of Domestic Industry with user industry if has taken care of fair prices for two other categories i.e. Thermal and Violet, it cannot be held that Landed Values of UV-CTC plates have caused the slight price suppression for this category. The price related data for MOU, NIP, Landed Value, realised NSR for POI and post POI as reported and analysed in above paras is tabulated below.

Rs./Sqm.	POI			Post POI (6 months)		
	UVCTP	Thermal	Violet	UVCTP	Thermal	Violet
MOU determined price	***	***	***	***	***	***
Net Sales Realisation	***	***	***	***	***	***
Non Injurious Price	***	***	***	***	***	***
Landed Value	167.17	282.35	302.42	146.5	301.29	313.84

Conclusions and Recommendations:

72. Having examined the contentions of various interested parties and on the basis of the above facts, circumstances, and analysis, the Authority concludes as under:

- (i) The financial and economic parameters of Domestic Industry (both volume and price) are stable and not evidencing deterioration requiring continuous of Anti-Dumping Duty.

- (ii) The 'MOU' signed by the Domestic Industry with the user association/user industry have led to mitigation of likely injury due to unfair trade.
- (iii) The prices agreed under MOU and actually realised by Domestic Industry during POI and post POI do not establish price underselling.
- (iv) The price trends of cooperating exporters and the import trend do not indicate a likelihood of recurrence of injury to Domestic Industry if ADD is withdrawn.
- (v) Non realization of full prices in accordance with the provisions of the MoU by the petitioner is the primary reason for non-mitigation of injury that has been noted on account of product underselling for UV-CTP plates due to leakages emanating from misdeclaration of product description during custom clearance.

73. The Authority also holds that capacity utilisation, production and overall profitability of the industry do not indicate existence of injury or a deteriorated economic condition. The factors submitted by Domestic Industry on likelihood of recurrence of injury on withdrawal of ADD are not supported by the price realisations and price trends of PUC during POI and post POI. The Authority on account of the aforesaid examination concludes that continuance of Anti-dumping duty is not warranted in any of the three categories of the product and hereby recommends dis-continuance of the ADD levied on the PUC vide Customs Notification No. 24/2017 – Customs (ADD) dated 2nd June, 2017.

(Sunil Kumar)
Additional Secretary & Designated Authority