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Government of India
Ministry of Commerce & Industry
Department of Commerce
(Directorate General of Anti Dumping & Allied Duties)
F.No.14/7/2011-DGAD

Final Findings

Dated: 3rd October 2012

Sub: Anti-dumping investigation concerning imports of Digital Offset Printing Plates originating in or exported from China PR and Japan – Final findings

Having regard to Customs Tariff Act, 1975 as amended from time to time (hereinafter referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules thereof, as amended from time to time (hereinafter referred to as the AD rules).

A. PROCEDURE

The procedure described below has been followed.

1. The Designated Authority (hereinafter referred to as the Authority), under the above Rules, received a written application by M/s TechNova Imaging Systems (P) Ltd, Mumbai (hereinafter referred to as the applicant) on behalf of the domestic industry, alleging dumping of **Digital Offset Printing Plates originating in or exported from China PR and Japan** (hereinafter also referred to as subject countries).
2. Preliminary scrutiny of the application revealed certain deficiencies, which were subsequently rectified by the Applicant. The application was, therefore, considered as properly documented.
3. The Authority, on the basis of sufficient evidence submitted by the Applicant to justify initiation of the investigation, decided to initiate the investigation against imports of the subject goods from the subject country.
4. The Authority notified the embassy of the subject countries in India about the receipt of dumping allegation before proceeding to initiate the investigation in accordance with sub-Rule 5(5) of the AD Rules.
5. The Authority issued a public notice dated 13th June 2011 published in the Gazette of India, Extraordinary initiating anti-dumping investigation concerning imports of the subject goods.
6. The Authority forwarded a copy of the public notice to all the known exporters (whose details were made available by the Applicant) and industry associations

and gave them opportunity to make their views known in writing in accordance with the Rule 6(2) of the AD Rules.

7. The Authority also forwarded a copy of the public notice to all the known importers of the subject goods in India and advised them to make their views in writing within forty days from the date of the letter.
8. The Authority provided a copy of the non-confidential version of application to the known exporters and the embassy of the subject country in India in accordance with Rule 6(3) of the AD Rules. A copy of the Application was also provided to other interested parties, wherever requested.
9. The Authority sent questionnaires to elicit relevant information to the following known exporters in subject country in accordance with Rule 6(4) of the AD Rules:
- 10.

Kodak (China) Graphic Communication
No 308, Wengjiao Rd, Xinyang Industrial District,
Haicang, Xiamen 361022
Fujian, P. R. China

Kodak (Singapore) Pte Ltd.
151 Lorong Chuan, #05-01 (Lobby A),
New Tech Park, Singapore 556741

Fujifilm Printing Plate (China) Co. Ltd.
No.202 Longtan Road
Suzhou Industrial Park – 215024
Jiangsu Province, China

Fujifilm Corporation
2-26-30 Nishi Azabu Minato-Ku
Tokyo 106-8620
Japan

JinJiang Industrial Park
Chengdu, Sichuan, 610063, P.R.China

The Second Film Factory of Lucky Group
718, South Station Road, Nanyang,
Henan, China

11. In response to the initiation notification, the following exporters / producers from subject countries have responded:
 - a) The Second Film Factory of Lucky Group
 - b) Fujifilm Printing Plate (China) Co. Ltd., China PR.
 - c) Fujifilm Corporation, Tokyo, Japan
 - d) Kodak (China) Graphic Communication (KCGCCL), China PR.
 - e) Kodak China Investment Company Limited (KCICL), China PR.
 - f) FUJIFILM Printing Plate (Suzhou) Co.,Ltd

- g) FUJIFILM (China) Investment Co., Ltd.
- h) Kodak (Singapore) Pte Ltd
- i) M/s Toray Industries Inc., Japan

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

1) Kodak India Private Limited
3rd Floor, Kalpataru Synergy
Santacruz (E), Mumbai, Maharashtra

2) Fujifilm India Private Limited
Plot No B-16, 2nd Floor,Block B-1
Community Centre, Janakpuri
New Delhi

3) Newstech (India) Pvt.Ltd.
Prabhadevi, Mumbai, Maharashtra

4) Kapoor Imaging Pvt.Ltd.
No. 6, 3rd Street, Balaji Nagar
Royapettah, Chennai – 600014
Tamil Nadu

5) Heidelberg India Pvt. Ltd.
Jamin Pallavaram
Chrompet, Chennai - 600 044.
Tamil Nadu

In addition, the Authority wrote to following users for their comments on the initiation notification.

Name	Address
Pragati Offset Pvt. Ltd	17, Red Hills Road, Hyderabad- 500 004 Andhra Pradesh, India
K.Joshi & Co. (Pune)	1745/2 Sadashiv Peth, Near Bhikardas Maruti Temple, Pune 411 030
Silver Point Press pvt Ltd	165, Kohinoor Industrial Estate, Opp:Phoenix Mills, Tulsi Pipe Road, Lower Parel, Mumbai- 400 013
R R Donnelley- India, Asia	43 A, 1st Main Road, R A Puram, Chennai - 400 028
TCPL Packaging Ltd.	49, Shiv Smriti, Dr. Annie Besent Road, Worli, Mumbai - 400 018

Bennet,Coleman & Co. Ltd	Times of India Building, Dr.D N Road, Fort, Mumbai - 400 001
Jagran Prakashan Ltd	Jagran Building, 2, Sarvodaya Nagar, Kanpur - 208 005
Dainik Bhaskar Group of Publications	Dwarka Sadan, 6, Press Complex, M.P.Nagar, Bhopal, Madhya Pradesh- 462 011
Utility Printers	A-2, 155, Shah & Nahai Indl Estate, S J Marg, Lower Parel(w), Mumbai, Mumbai - 400063, Maharashtra State

13. In response to the initiation notification, the following importers /users have responded

- a. Kapoor Imaging Pvt.Ltd. , Chennai
- b. SP Global Impex Pvt. Ltd., Chennai
- c. Rave India, Gurgaon, Haryana
- d. Paras Offset Pvt. Ltd., New Delhi
- e. Thompson Press (India) Limited, Faridabad, Haryana
- f. Vatspac, New Delhi
- g. First Impression Corporate Services Pvt. Ltd, Noida U.P.
- h. Indian Graphics, Delhi
- i. G-Scan, New Delhi
- j. V.K. Box Industries Ltd.
- k. Press Touch Graphics, New Delhi
- l. Photone, Ahmedabad
- m. All India Federation of Master Printers, New Delhi and its affiliated regional associations.
- n. J.R. Associates, New Delhi
- o. Graphtone, Pune
- p. Paranjpe Graphics
- q. Offset Printers Association, Calicut
- r. Kerala Master Printers Association, Calicut
- s. Rakesh Press, Delhi
- t. Kerala Master Printers Association, Thiruvantapuram
- u. Amar Ujala Publications Ltd., Noida
- v. Maxflex Imaging Systems Ltd., Mumbai
- w. Insight Print Communications Pvt. Ltd, Chennai
- x. MS Graphics Pvt. Ltd.
- y. RV Marketing Company Ltd., Banglore
- z. Fujito India Pte. Ltd., Hyderabad
- aa. Graphics Enterprise, Kolkatta
- bb. Vinayak colour Offset, New Delhi
- cc. Ramneek Creations, Hyderabad
- dd. The Saraswati Printing works, kolkatta
- ee. Balaji prepress, Sivakasi
- ff. ICIT software centre Pvt. Ltd. Hyderabad
- gg. Halftone, Hyderabad
- hh. New Anuteya offset press, Vijaywada
- ii. Pixel Cube , Hyderabad
- jj. ICMC corporation Ltd., Chennai
- kk. Chaitanya Image Zone, Vijaywada
- ll. Express Printers, Vijaywada

mm. Srilekha Power Printers, Vijaywada
nn. Foroscan Grafic Pvt. Ltd. Kolkata
oo. Rajanya Offset Printers, Vijaywada
pp. Cirrus Graphics Pvt. Ltd., New Delhi
qq. Indian language newspaper associations
rr. M/s Fujifilm India Private Limited (FFIN)
ss. M/s Kodak India Pvt Ltd

14. 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. During the investigation proceedings, exporters, importers/users associations under All India Federation of master printers(AIFMP) with affiliated associations as well as the domestic industries submitted information relating to the investigations.
15. Information provided by interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis was directed to provide sufficient non confidential version of the information filed on confidential basis.
16. Further Information was sought from the applicant and other interested parties to the extent deemed necessary.
17. The Non-injurious Price based on the cost of production and cost to make and sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) has been worked out so as to ascertain whether Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to the Domestic Industry;
18. Investigation was carried out for the period starting from 1st April 2010 to 31st March 2011(POI). The examination of trends, in the context of injury analysis covered the period from 2007-08, 2008-09, 2009-10 and POI.
19. Exchange rate for conversion of US\$ to Rs. is considered for the POI as Rs.46.17 as per customs data.
20. The preliminary finding was issued on 16th March 2012 and a copy of the same was sent to the all the interested parties for their comments. A copy of the same was also placed on the website simultaneously for the information of all concerned parties.
21. In accordance with Rule 6(6), the Authority provided an opportunity to all interested parties to present their views orally in a Public Hearing held on 10th April 2012. The interested parties who presented their views in the Public Hearing were requested to file written submissions of the views expressed orally and to submit their rejoinders one week thereafter. The Central government extended the time to complete the investigation by three months up to 12th September 2012 vide FNo 354/45/2012 dated 13th June 2012 and up to 12th December 2012 vide FNo 354/45/2012 dated 24th September 2012.
22. Onsite verification was carried out in respect of cooperating and responding exporters to the extent feasible to verify their claims regarding market economy, normal value and export price and on the basis of verification, a verification report was issued on confidential basis to verified exporters and comments received from all have been duly examined in these final findings subject to being relevant in the subject investigations.

23. In accordance with Rule 16 of Rules Supra, the essential facts/basis considered for these findings were disclosed to known interested parties and comments received thereon have been considered in the final findings. The responding producers and exporters were also given confidential copies of the details of calculation for net export price and, landed value. Similarly, the domestic industry was also given a copy of the cost sheet which gave a detailed break up of non injurious price determination. Following the discovery of a calculation error, a supplementary disclosure containing injury margin for responding producers and exporters were circulated to all interested parties for their comments, if any. These calculations/determinations were also discussed with the responding producers, exporters and domestic industry after they requested the Authority. Further, some of interested parties representing user association requested the Authority to grant some more time to submit response to the disclosure statement which was granted by the Designated Authority.

24. *The following interested parties have submitted their comments post the disclosure statement*

- Andhra Pradesh Printers Association, Hyderabad
- Noida Offset Printers Association, Noida
- Kerala Master Printers Association, Cochin
- Dua Associates on behalf of Kodak group of companies (KCGCCL, KCICL, and Kodak Singapore Pte Ltd and Kodak India Ltd),
- Thomson Press (India) Ltd, Haryana.
- All India Federation of Master Printers, New Delhi
- Kochhar & Co on behalf of Fuji group of companies (FFPS, FFPB, FFIN and Fiji film corporation, Japan).
- Technova Imaging Systems (P) Ltd, Maharashtra
- L&S and M/s ELP on behalf of Technova Imaging Systems (P) Ltd, Maharashtra
- TPM Consultants on behalf of Lucky Huaguang Graphic, China PR
- Chennai Printers Association

25. The comments to the disclosure statement as received from above mentioned interested parties have been addressed in the final findings to the extent they have been considered relevant to the present investigation.

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

27. *** in this final findings statement represents information furnished by an interested party on confidential basis and so considered by the Authority on merits under the Rules.

A. PRODUCT UNDER CONSIDERATION (PUC) AND LIKE ARTICLE

28. The product under consideration in the present investigation is Digital Offset Printing Plates (hereinafter referred to as “Digital Plates” or subject goods). 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.

29. In the initiation notification, the Digital plates were classified into three categories namely Thermal, Violet and CtCP('Computer-to-Conventional Plate')based on their application. It was mentioned in the initiation notification that digital plates that are exposed using infra-red energy are called thermal plates while digital plates that are exposed using visible and near-visible light energy (violet lasers) are called violet plates. It was also mentioned that there are certain types of digital plates known as CtCP Plates ('Computer-to-Conventional Plate') that use ultra violet rays for exposure and transferring image directly from the computer to the plates. All types of digital plates in all dimensions are covered within the scope of the product under consideration.

Views of Exporters, Importers, Consumers and other Interested Parties

30. M/s Lucky Huaguang Graphics Co. Ltd., (Lucky) (producer and exporter in China) has made a claim that CtCP plates are not digital printing plates and should be excluded from the scope of product under consideration.

31. It has been claimed by other importers and user association that CtCP plates are conventional printing plates and are already attracting anti-dumping duty.

32. Similarly, Fuji Film Corporation, Japan, Fuji Film Printing Plates (China) Co. Ltd. various users and importers including All India Federation of Master Printers (AIFMP) have also tried to distinguish CTcP plates from digital plates and have requested for its exclusion from the scope of product under consideration. In addition, Fuji has also stated that their VP plates are conventional plates and not digital plates. Further, it has been submitted that "CtcP" stands for Computer to Conventional Plates and intention of the development of CtcP system is to make conventional plate available to realize lower material cost comparing with CTP system/plates. It has been submitted that CTcP could be realized due to growing affordability (lowering cost) of laser, not by improvement/development of plate itself. Thus many customers use normal conventional plates for CTcP plates. However FUJIFILM has dedicated line-up of plate for CtcP based on the same recipe of conventional plates but just not having matt material which is commonly used for conventional plates. This dedicated type of CTcP plate is named as VPC-H in FUJIFILM plates line-up and introduced in China market but never imported into Indian market. All the conventional plates from FUJIFILM China factories are recognized as the subject of anti-dumping duty irrespective usage at customers' site.

33. It has further been submitted that CTcP dedicated plates cannot be exposed with CTP setter due to its low sensitivity. Also, it cannot be used with conventional way of exposure by the reason of having no matt material. Without matt material, there is gap between film and plates (image on film should be exposed to plates) and this gap can keep unnecessary air which cause shortage of exposure. Vice versa, CTP plates can not be exposed at CtcP setter. Thermal plates cannot react against laser of 405nm wave length by CtcP setter. Violet plates is meant for exposing against laser of 405nm wave length, but over exposed while being exposed at CtcP setter due to its having more sensitivity comparing with CtcP plates. M/s Fuji has represented that their VPS-A and VP plates from China should be classified with conventional plates, which is also the current subject of anti-dumping duty in India, and should be excluded from subject of investigation this time.

34. Following the public hearing, written submissions and rejoinders have been filed by various interested parties which have reiterated their views. The matter was further taken up by exporters during the exporter's onsite verification where they explained the details of the product under consideration and submitted their claims regarding the CTcP plates and VP plates. M/s Lucky reiterated their earlier submissions with regard to the fact that CTcP plates are different from digital plates and should be classified with analogue PS plates. It was also submitted by some of the interested parties that analogue and CtCP plates can be used interchangeably and there is no difference in the cost of Analogue and CtCP plates. Further, it was also submitted that selling price of CtCP plates is close to the selling price of Analogue plates and both are competing with each other. In view of these, some of the interested parties wanted CTcP plates to be excluded from the digital plates. Another producer and exporter M/s Toray Industries Inc., Japan participated during the investigation and submitted that their product CTP Waterless Plates is different from the product under consideration as it has different process of manufacture and has three layers of coating and their product should be excluded from the purview of the product under consideration. The party has submitted that CTP waterless plates is not a like article as CTP waterless plates are neither identical nor they have characteristics closely resembling to digital plates and they should be excluded from scope of investigation. It was also submitted that CTP waterless plates are used for the waterless printing technology. Waterless printing is an offset lithographic printing process that eliminates the water or dampening system used in conventional printing. It uses silicon rubber coated printing plates and specially formulated inks and typically a temperature control system is integrated into waterless presses. In conventional wet off printing, dampening water which contains harmful substances such as etch solution and isopropyl (IPA) is used in the printing process. It was also submitted that for waterless printing a specially designed printing press is required. Customers in India are using a printing press called 'Genius' which is specially designed for CTP waterless plates.

35. Following the disclosure statement, various interested parties representing importers, users and exporters have reiterated their views made earlier by them during the course of the investigations and they have requested to the Authority to exclude CTCP plate from the purview of the PUC.

Views of the Domestic Industry

The following are the views of the domestic industry:

36. On the issue of CtCP plates and its inclusion within digital plates, it has been submitted that when printers started moving away from analogue printing to digital printing, they had to use digital plates. Since the digital plates were dearer than analogue plates, a less costly alternative was needed. For this purpose, a "computer to conventional plate" (CtCP) was developed with certain enhancements and modifications to the analogue plates. Since analogue plates were using UV sensitive rays, CtCP was also developed for plate setting using UV sensitive rays. For this reason, they are also called "UV-CtP".

37. With regard to its differentiation from digital plates, it has been submitted that analogue plates are coated with an 'Electro static Vacuum Assist (EVA)' or 'Matt Surface' to make perfect contact between plate and film. In the case of CtCP, no such coating or matt surface is required thereby making its manufacturing process different from that of analogue plates. Further, a number of work-steps are manually carried out while using analogue plate including a step involving the use of 'printing down frame' for developing plates. In the case of CtCP / UV-CtP, use of 'printing down frame' is not required at all.

38. It has further been submitted that CtCP is a subset of CTP technology. The industry commonly understands CtCP as a digital plate only and not as an analogue plate. In this regard, the following may be noted: In the website of L&Y Printing material manufacturer in China, it has been stated as follows:

“CtCP plate is the short form for computer to conventional plate. **It is a form of CTP technology.**”

39. In the website of Jiangsu Yunyan Printing Plate Co Ltd, China, under the heading CTCP Plate, they indicate it as ‘UV-CTP’. The use indicated is ‘digital printing’.

40. Further, in the website of Lucky Huaguang Graphics Co Ltd, in the product description for CtCP plate it has been stated that it is a Positive Offset Plate for UV – CTP plate making. They have also grouped CtCP plate as one of the 12 CtP plates.

41. Cron - a plate manufacturer has listed out all the CtCP Plates that are compatible with their CronCtC Plate Setter machine. One of the CtCP Plates mentioned is Fuji’s “VP” model plates. This makes it evident that Fuji’s VP plates are not analogue plates but CtCP digital plates.

42. It may be recalled that in paragraph 5 of the final findings dated 23rd August, 2007 concerning imports of PS Plates from Bulgaria, China PR, Malaysia, Singapore and South Korea, three types of digital plates were clearly mentioned i.e. “Digital Plates (Thermal or Violet or UV sensitive)”. Thermal plates use infrared lasers and violet plates use violet lasers. The UV sensitive digital plate is CtCP or UV-CTP plates that use ultraviolet rays. In paragraph 6 of the said final findings, the authority held that the product under consideration does not cover digital plates. Reading both paragraph 5 and 6 of the final findings, one comes to the inescapable conclusion that CtCP/ UV-CtP stands specifically excluded from the scope of the earlier investigation. There is no merit whatsoever in the argument that CtCP is already covered in the earlier investigation concerning ‘PS Plates’.

43. The domestic industry after the preliminary findings reiterated their views about the product under consideration and like product as submitted by them earlier. They have also submitted that CTP Waterless Plates are in fact digital offset printing plates since they do not require the use of film. At the time of imports, these plates are also described in the same manner as Digital Plates. Hence, there is an possibility that circumvention of the anti-dumping duty may take place and Digital Plates covered under the present investigation may be imported under the name and description of CTP Waterless Plates, causing injury to the Domestic Industry and negating the remedial effects of the anti-dumping duty. Further, the Domestic Industry does manufacture chemistry free plates which are akin to “waterless plates” and are classified as Digital Plates.

44. Following the disclosure statement, the domestic industry has reiterated its views made earlier by them during the course of the investigations and have stated that CtCP plates are digital plates and these plates are included within PUC. With regard to exclusion of VP plates produced and sold by M/s Fuji, the domestic industry has reiterated its opposition to the exclusion of these plates from the purview of the PUC stating that these should be included within digital plates.

EXAMINATION BY THE AUTHORITY

45. The Authority has noted the arguments advanced by various interested parties. The primary issue to be decided in so far as scope of product under consideration is whether CtCP plates would qualify as digital plates and would be covered within the scope of product under consideration.

46. It is noted that Post disclosure, various interested parties have reiterated their comments in relation to PUC. The comments made by various interested parties have been examined by the Authority.

47. It is noted that offset printing plates are classified into two broad categories namely Analogue Plates and Digital Plates. In the case of analogue plates, images are transferred from a computer to the plate through Graphic Art Film. In the case of digital plates, print contents are transferred onto the plates directly from the computer system using a plate setter.

48. During the examination of submissions made by various interested parties, the following facts were noted by the Authority:

a) It was noted that analogue plates use metal halide lamps while digital plates including CtCP plates use various laser beams for creating images on them. The imaging time for digital plates including CtCP plates were much lower than that required for analogue plates.

b) The plate development process at the user end was also noted during the verification visit in the laboratory maintained at the plant. It was noted that the CtCP / UV-CTP were used in ultra violet plate setter, thermal plates were used in an infrared plate setter and violet plates were used in a violet plate setter. It was further noted that in the case of analogue plates, image was first transferred from the computer to a graphic art film and secondly, the image was transferred from the graphic art film to the plate. It was also noted that the development process included a number of manual work-steps including ensuring perfect contact between plate and film using the 'printing down frame' while exposing the plate to UV light. It was noted that these manual steps were not required while developing CtCP or UV-CTP using UV plate setter.

c) It was noted that analogue plates were coated with an Electro-static Vacuum Assist (EVA) or Matt Surface. In the case of CtCP, no such EVA coating or matt surface was required. With regard to the arguments of some interested parties that analogue and CtCP plates can be used interchangeably and there is no difference in the cost of Analogue and CtCP plates, it is noted that due to the absence of EVA coating on a CtCP, if it was used in analogue developing process, quality of image transfer would be poorer as compared to using an analogue plate. For the same reason, if the analogue plate was used in a digital plate setter, image quality would be poorer as the EVA coating would get rubbed on to the image surface. In addition, if analogue plate was used in a digital plate setter using UV light, laser consumption would be higher and laser head would get exhausted faster.

d) During the examination, it was noted from the information available on the website of L&Y Printing material manufacturer in China, Jiangsu Yunyan Printing Plate Co Ltd, China and Lucky Huaguang Graphics Co Ltd, that Chinese manufacturers themselves treat CtCP plates as UV CTP plates. In fact, a search on CtCP plates showed that it is a type of UV CTP plates and various manufacturers characterize it accordingly.

e) In response to arguments made by some of the interested parties during the investigation, the earlier final findings dated 23rd August, 2007 issued by the Authority was also seen. From Paragraph 5 and 6 of the said Final Findings concerning imports of PS Plates

from Bulgaria, China PR, Malaysia, Singapore and South Korea, it is seen that digital plates (thermal, violet or UV sensitive) were excluded from the scope of the product under consideration in that investigation. Therefore, it is noted that it may not be correct to hold that UV-CTP was included within the scope of the earlier investigation.

Further, on the issue of VP plates produced and exported by M/s Fuji film China to India and the arguments that these are conventional plates and not the digital plates, it is noted after examining their submissions and subsequent verification visit to the plant of the producer and exporter that VP plates were indeed sold as PS plates in their invoices marked to importer to India. Further, it was also noted from their submission and noted during plant visit that VP plates contain Electro Vacuum Assist and Matt Surface. It was also informed that these plates are not used with laser technology. A physical verification/examination of the VP plates and digital plates manufactured by them suggested that the surface of both these plates were different and digital plates had much smoother surface than VP plates. Further, in the course of verification, it was shown that the VP and VPSA are not pre sensitized with laser, unlike CTcP

f) On the basis of above examination, it is held that CtCP plates are in fact digital plates and are covered within the scope of product under consideration in the present investigation. Further, with regard to submission made by one of the exporters about exclusion of VP and VPSA plates from the purview of product under consideration, the authority holds that Fuji's "VP plates" and "VPSA plates" are not CtCP plates and therefore they are not included under PUC. In this regard, the Authority does not agree with the views of domestic industry with regard to inclusion of "VP plates" within the purview of PUC.

g) With regard to submission by some of the interested parties that selling price of CtCP plates is close to the selling price of analogue plates and both are competing with each other, it is noted that the two products cannot be said to be like articles or competing with each other merely because the prices of the two products fall within the same range. It is further noted that the two products do not compete with each other as they are used in different printing processes. As stated earlier, technically and commercially they are not substitutable. Therefore, it is not relevant whether the prices are within the same range or differ significantly.

h) On the issue of exclusion of CTP waterless plates, it is noted that M/s Toray has filed very limited submissions with regard to their export prices of their products in their domestic market as well as export prices listing for the POI for export to India. As mentioned in the verification report, except for the product process, not much information was made available from their original records in terms of costs and prices (domestic as well as exports to India). During the verification visit, it was noted that CTP waterless plates do not require film as intermediary for transferring of image. The issue of exclusion of the CTP waterless plates from PUC was examined by the Authority and it was noted that some differences in technology, changes in some of raw materials and special designed process do not make CTP waterless plates as non-digital plates. It is further noted that two are in fact digital plates with the difference being that waterless plates are made incorporating some of the intermediate processes which are different from digital plates manufacturing process. Indeed, it was noted that CTP waterless plates are priced higher than digital plates exported from Japan to India (as per some of the invoices submitted by M/s Toray during and after the verification visit).

49. After examining the submissions of various interested parties, the product under consideration is defined as follows:

The product under consideration in the present investigation is Digital Offset Printing 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 aluminium 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.

a) Digital plates may be broadly classified into three categories namely Thermal, Violet and CTcP/UV-CtP ('Computer-to-Conventional Plate') based on their application. Digital plates that are exposed using infra-red energy are called Thermal plates. Digital plates that are exposed using visible and near-visible light energy (violet lasers) are called violet plates. Digital plates that are exposed using ultra violet rays for exposure are known as CTcP/UV-CtP. As mentioned earlier, "VP plates" and "VPSA plates" manufactured by M/s FFPS and M/s FFPB are not CtCP plates and therefore they are not included under PUC.

All types of digital plates in all dimensions are covered within the scope of the product under consideration.

50. The subject goods fall under Tariff Item '8442.5020' of the Customs Tariff. However, there have been imports of the subject goods under other headings such as 3701.3000, 3704.0090, 3705.1000, 7606.9191 and 7606.9290 as well. Customs classifications are indicative only and in no way binding on the scope of the present investigation.

Like Article

51. Rule 2(d) of the AD Rules defines like article as follows:

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

52. The applicant has claimed that the subject goods, which are being dumped into India, are identical to the domestic like product produced by the domestic industry. The applicant has claimed that there is no known difference in applicant's product and subject goods exported from the subject country and are comparable in terms of characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods and there is no significant difference in the subject goods produced by the applicant and those exported from the subject country and the both are technically and commercially substitutable.

53. The Authority has examined the matter and notes that there is no known difference in subject goods produced by the Indian industry and exported from subject country(ies). The subject goods produced by the Indian industry and that imported from subject country(ies) are comparable in terms of characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses,

product specifications, pricing, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers are using the two interchangeably. None of the opposing interested parties has raised any objection in this regard. In view of the above, the subject goods produced by the petitioner companies are being treated as domestic like articles to the product under consideration imported from subject countries in accordance with the anti-dumping Rules.

B.SCOPE OF DOMESTIC INDUSTRY AND STANDING

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

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

55. It is noted that the application has been filed by M/s TechNova Imaging Systems (P) Ltd, Mumbai (hereinafter referred to as the applicant) on behalf of the domestic industry. The production of the applicant accounts for a major proportion of the total domestic production of the like article and is more than 50% of total Indian production (comprises 100% of total domestic production). It is also noted that M/s applicant has not imported the subject goods from subject countries. Further, none of the interested parties have raised any issues with regard to standing and domestic industry status of the applicant. In view of the above and after examination, it is held that the applicant satisfies the requirements of Rule 2(b) and Rule 5(3) of the AD Rules.

Other issues raised by Exporters and user industry

56. The following are the other issues raised by exporters, importers and user industry on the issue of fair comparison, chemicals cost included in net sales realization & non injurious price, whereas import price of subject goods excludes chemicals cost.

- i. It has been submitted that M/s Technova has suppressed vital facts from the Authority that it has supplied chemicals free of cost along with digital plate, whereas the same have not been supplied free of cost in case of imports. It has also further been submitted that since selling price includes the cost of chemicals, the net sales realization adopted by the Designated Authority is overstated. Once this is corrected, the price undercutting would further be negative.
- ii. It has been further added that the profit is understated by including cost of chemicals into the costs of the product. The non injurious price is overstated to the extent of cost of chemicals included in the data. It is assessed that the cost of chemicals would constitute around 5-8% of the plates cost. Once these costs are adjusted, the injury margin in case of Japan and Kodak Film, China is negative in

all situations and injury margin in respect of Lucky and other exporters would be reduced to that extent.

Sales Channels

- iii. The sales channels adopted by Technova and foreign producers are different. Technova has not disclosed full facts before the Designated Authority and withheld the vital fact that the foreign producers are not exporting the product to end consumers and there are significant resale costs being incurred for selling the imported product to the consumers. This has direct impact on the price difference between the imported and domestic product.
- iv. The imports are not competing with the domestic industry at the level of custom ports. It is only the sales price of the imported product that is competing with the domestic industry. Thus, any comparison of import price at the port with selling price or cost of production or non injurious price of Technova shall constitute highly unfair comparison both for dumping margin and injury margin determination.

Level of trade

- v. Sales cost is being incurred by Technova and are not being incurred by the foreign producers for exports to India. In case of foreign producers, such sales functions are being performed either by their counter parts in India such as Fuji or Kodak Indian operations or by reseller such as Max Flex and Kapoor Imaging. Therefore, any comparison of cost and prices of Technova which includes significant amount for sales cost within port price at the Indian port will be highly distorting.

After sales services

- vi. The product under consideration involves significant after sales services. While Technova is providing these sales services, in case of imports, the resellers of the imported product in India are providing these after sales services. Thus, any comparison of Technova's cost of production, selling price or non injurious price with import price at port shall be highly misleading and lead to unfair comparison if after sales services are included in the sales prices or cost of production or non injurious price.

The investigation has been initiated without jurisdiction

- vii. Rule 5(1) of the AD rules requires that an Anti-dumping investigation shall be initiated by the Designated Authority. The subject investigation has been initiated vide notification dated 13.06.2011 by Ms. Vijaylaxmi Joshi. The opposing parties have submitted that the exercise of power by Ms Vijaylaxmi Joshi as the Designated Authority on the date of issuance of the subject notification was illegal as the order for appointment of Ms Vijaylaxmi Joshi for that post was notified only on 28.07.2011.

Comments made by interested parties representing exporters, importers and

users in response to disclosure statement

57. Following disclosure statement, various interested parties representing exporters, importers, users, associations as well as domestic industry have made comments. Most of the issues raised by these interested parties are reiteration from their earlier submissions before the Authority.

58. The interested parties representing exporters, importers, users, associations have reiterated their views about after sales service, level of trade and sales channel made earlier in their submissions and have requested the Authority to address these issues.

Submissions made by Domestic Industry

59. The following are the rejoinders submitted by the domestic industry on the issues raised above by other interested parties.

(i) M/s Lucky has contended that as the Domestic Industry directly buys “plates” and not aluminium, there is no justification for considering Aluminium as the starting raw material and the Hon’ble Designated Authority ought to have considered aluminium plates prices for constructing normal value. It is submitted that aforesaid submission of the Interested Party is factually incorrect and liable to be ignored. The Domestic Industry procured Litho-Grade Aluminium Coil which is covered under Aluminium flat rolled products.

Chemicals costs

(ii) M/s Lucky Group has submitted that the Applicant has supplied chemicals free of cost along with digital plates, whereas the same has not been supplied free of cost in case of imports. This statement is factually incorrect. Pre-press chemicals that are supplied along with the digital plates in respect of certain select customers and are not supplied to all the customers. This practice is not limited to the Applicant alone. Other multinationals also supply digital plates with free pre-press chemicals, especially when they sell it to their customers like Newspapers.

(iii) The incidence of pre-press chemicals cost would be nil or highly insignificant on the injury margin or price underselling as well as price undercutting. In fact, the amount will not even change by 1 US cent.

SALES CHANNELS

(iv) M/s Fuji and M/s Kodak are exporting to their respective Indian related entities which resell the product in India. M/s Fuji Japan is selling directly to unrelated customers as well as through the related entity M/s Fuji India.

(v) The Applicant sells the goods through a number of distributors and resellers in the Indian market. In fact, Domestic Industry has more than 615 resellers (including distributors, dealers and sub dealers) and almost 60% of their sales are through these resellers.

(vi) Domestic industry incurs significant warehousing and other charges at various locations for keeping the goods ready for delivery to the distributors and resellers. The Applicant also pays 'Commission' to distributors and resellers. In calculating the NIP, the Hon'ble Designated Authority has not considered the commission as well as logistics and other expenses incurred after the ex-factory stage. The NIP does not include any component of such expenses. If such expenses are added to the NIP, then, and only then, the question of comparing the NIP with resale price of the resellers will arise.

LEVEL OF TRADE

(vii) All costs incurred by related importers of M/s Kodak & M/s Fuji would be considered by Hon'ble Designated Authority for calculating dumping margin not injury margin.

(viii) Domestic Industry employs around 90 sales persons only. In any case, it is pertinent to note that cost incurred by Domestic Industry after ex-factory level .i.e. commission and discount, freight forwarding expenses, other selling and distribution expenses have been disallowed by the Hon'ble Designated Authority while calculating NIP.

AFTER SALES SERVICES

(ix) M/s Lucky has merely stated that product under consideration involves significant after sales services without submitting any proof of such extensive after sales services.

(x) The subject goods imported by related companies of exporters in India and other importers are sold in the same form in which they are imported. No additional activities are carried out by these importers/resellers for selling the subject goods to end consumers.

(xi) In case, the Hon'ble Designated Authority wishes to take into consideration the above mentioned costs, we request the inclusion of all the expenses which are disallowed for the purpose of calculating NIP of Domestic Industry.

The investigation has been initiated without jurisdiction

(xii) Ms. VijayLaxmi Joshi was appointed as Joint secretary in the Ministry of Commerce, the post was originally that of an Additional Secretary and it was downgraded to the level of joint Secretary and she was appointed to that post. Upon her promotion, the post of joint secretary held by her was also upgraded and she continued in the same post. Thus, there was no change in the functions discharged by her except for the level of the post to which she belonged.

(xiii) It must be noted that Ms. Joshi was never relieved from the office of Designated Authority after her appointment, especially upon her promotion. Since she was not relieved at all and that she had been appointed to the post by name, she continued to discharge the functions of the designated authority.

(xiv) The doubts which the Interested Parties have raised had been settled by issue of a formal notification by the Ministry of Commerce even before the issuance of preliminary findings. The position has also been well settled legally in view of the judgment of the Hon'ble Bombay High Court in Hamilton Houseware Pvt Ltd. Vs. Designated Authority.

Comments made by the domestic industry in response to disclosure statement

60. Following the disclosure statement, the domestic industry has reiterated its views made earlier by them during the course of the investigations with regard to after sales service, level of trade and sales channel made earlier in their submissions.

EXAMINATION BY THE AUTHORITY

61. The following is the examination made by the Authority on the submissions made by various interested parties before and after issuance of disclosure statement.

(i) With respect to free pre-chemicals supplied by the domestic industry, the Authority notes that domestic industry has supplied free pre-press chemicals and after examination necessary adjustments have been made in the determination of non injurious price of subject goods produced by the domestic industry as well as net selling price determined for the domestic industry. With regard to the specific issue raised by the importers and associations about the chemicals cost quantum reported on lower side both in calculation of the NIP and net selling price of domestic industry, the matter has been examined in detail and it is noted that the incidence of free press chemicals is not as low as claimed made by the domestic industry.

(ii) With respect of arguments made by the various interested parties regarding different sales channels for domestic industry and exporters for sales of subject goods in India, different levels of trade and exclusion of after sales service cost incurred by the domestic industry from the purview of determination of NIP, it is stated that the Authority has computed the NIP as per rules made in this behalf and excluded the costs incurred by domestic industry after ex-factory level such as commission, freight outward, discount and commissions. Further, it is noted that the domestic industry and exporters (through their related companies in India) also follows similar distribution channels. It is further noted that the Domestic industry also sells majority of subject goods through distributors and resellers, whereas exporters also sells the subject goods through their related companies in respect of majority of their sales. It is also noted that the primary function of these related importers is to market the goods and no additional activities are performed by these importer/resellers except selling the goods to end consumers which is similar to the role being played by Indian distributors and resellers. In view of the above, the level of trade and sales channels are almost similar for domestic industry and exporters.

(iii) With regard to arguments that the investigation has been initiated without jurisdiction, it is noted that jurisdiction issue has been settled by the Hon'ble High court of Bombay in Hamilton Houseware Pvt Ltd. Vs. Designated Authority. It is submitted that the issue of jurisdiction of Ms. Vijaylaxmi Joshi to function as Designated Authority upon promotion to the rank of Additional Secretary was made in connection with another investigation before the Hon'ble Bombay High Court in the case of Ms/ Hamilton Housewares Pvt. Ltd. vs Designated Authority

and the Hon'ble Bombay High Court in its judgment reported in (2012) 2076 ELT 191 (Bom.) dismissed the writ petition, holding that there is no dispute about the validity of initial appointment of Ms. Joshi as Designated Authority and Ms. Joshi is not an intruder or usurper in the post and that she continued to discharge the functions of the Designated Authority as per Rule 3 under legal authority and that the acts of such authority are protected by application of well known doctrine of de facto. Subsequent Customs Notification No. 48/2011 dated 20.07.2011 and 28.07.2011 clarified that Ms. Joshi validly under colour of lawful authority continued to discharge functions of the Designated Authority. It is also held that in case of conflict of business interests between importers of dumped product under investigation and Domestic Industry seeking protection from injury due to such dumped imports, challenge of appointment of Designated Authority is subsidiary. The Designated Authority does not have any interest in such conflict but as a judge and acted in public interest as adjudicator and not in her own interest and, therefore, in such a case the doctrine of de facto is applicable and the actions of the Designated Authority are protected under such doctrine. It is held that in certain circumstances the act of the officers holding public or judicial offices would be valid in law even though the appointment of such officer may be invalid and in strict legal sense he may not have power to do that act.

D. DUMPING MARGIN

D.1 NORMAL VALUE

China PR

MET Examination and normal value for all producers and exporters from China PR

62. The Authority notes that in the past three years China PR has been treated as non-market economy country in the anti-dumping investigations by other WTO Members. Therefore, in terms of Para 8 (2) of the annexure 1 of AD rules, China PR has been treated as a non-market economy country subject to rebuttal of the above presumption by the exporting country or individual exporters in terms of the above Rules for the purposes of final finding.
63. As per Paragraph 8 of the Annexure I to the Anti Dumping Rules as amended, the presumption of a non-market economy can be rebutted if the exporter(s) from China PR provide information and sufficient evidence on the basis of the criteria specified in sub paragraph (3) in Paragraph 8 and establish to the contrary. The cooperating exporters/producers of the subject goods from China are required to furnish necessary information/sufficient evidence as mentioned in sub-paragraph (3) of paragraph 8 in response to the Market Economy Treatment questionnaire to enable the Designated Authority to consider the following criteria as to whether:-
- a) The decisions of concerned firms in China PR regarding prices, costs and inputs, including raw materials, cost of technology and labor, output, sales and investment are made in response to market signals reflecting supply and demand and without significant State interference in this regard, and whether costs of major inputs substantially reflect market values;

- b) The production costs and financial situation of such firms are subject to significant distortions carried over from the former non-market economy system, in particular in relation to depreciation of assets, other write-offs, barter trade and payment via compensation of debts;
 - c) Such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms and
 - d) The exchange rate conversions are carried out at the market rate.
64. The Authority notes that responding producers/exporters of the subject goods from China PR have submitted their questionnaire responses and responding exporters have submitted response to the market economy questionnaire consequent upon the initiation notice issued by the Authority and have submitted response and have sought to rebut the non-market economy presumption. The questionnaire responses and the market economy responses of the responding producers and exporters have been examined for determination of normal value of the responding producers/exporter of the subject goods from the subject country as follows.

Responding producers/Exporters seeking MET from Fuji Group of companies

65. The following claims have been submitted by FUJIFILM PRINTING PLATE CO., LTD ,China (FFPB), Fujifilm Printing Plate (China) Co., Ltd (FFPS), China and M/s FUJIFILM (China) Investment Co., Ltd (FFCN) in respect of grant of market economy treatment. All the producers and exporters of subject goods have sought MET treatment.

FUJIFILM PRINTING PLATE CO., LTD ,China (FFPB)

Submissions made by the company on the issue of MET and Dumping Margin

66. M/s FFPB has claimed that it is *** owned by FUJIFILM (China) Investment Co. Ltd., Shanghai. In its submission, the company claims that it was a foreign (co-operative or equity) joint venture from *** and since *** it is a wholly-owned foreign enterprise. It has been submitted that before the year ***, the shareholder of the company is ***. (the equity of ***) and Beijing keyin modern printing technology Co., LTD (the equity of ***) .Since ***, the shareholder of the company is FUJIFILM (China) Investment Co., Ltd. which is the sole shareholder of the company which in turn is owned by M/s Fujifilm Corporation, Japan. It has also been submitted that neither it is formed by locals and nor it is not owned by the state partly or fully or by local/regional authorities. Further, it has been submitted that it is not the one in transformation from States nor local bodies to privatization. It has also been submitted that FUJIFILM (China) Investment Co., Ltd also owns FUJIFILM PRINTING PLATE (China) Co., Ltd as sole shareholder. It has also been added that FUJIFILM PRINTING PLATE (China) Co., Ltd produces and exports the concerned merchandise. It has also been added that none of the Director or shareholder is of local nationality. The producer and exporter have submitted that raw materials and utilities are procured at normal rates and not on special or subsidized rate. Further, no local/regional authority or state is involved in setting prices/ quantities for sale and there is no restriction on export, production or sale. It is also noted that M/s FFPB sells the subject goods in the domestic market to their

exclusive distributor and their parent company namely M/s FUJIFILM (China) Investment Co., Ltd (FFCN) which in turn sells the subject goods to users in China PR.

Fujifilm Printing Plate (China) Co., Ltd (FFPS), China PR

Submissions made by the company on the issue of MET and Dumping Margin

67. M/s FFPS has claimed that it is *** owned by FUJIFILM (China) Investment Co. Ltd., Shanghai. In its submission, the company claims that it is a wholly-owned foreign enterprise which is owned by FUJIFILM (China) Investment Co., Ltd. which is the sole shareholder of the company which in turn is owned by M/s Fujifilm Corporation, Japan. It has also been submitted that It is not formed by locals and is not owned by the State partly or fully or by local/regional authorities. Further, it has been submitted that it is not the one in transformation from neither States nor local bodies to privatization. It has also been submitted that FUJIFILM (China) Investment Co., Ltd also owns FUJIFILM PRINTING PLATE (China) Co., Ltd as sole shareholder. It has also been added that FUJIFILM PRINTING PLATE (China) Co., Ltd produces and exports the concerned merchandise. It has also been added that none of the Director or shareholder is of local nationality. The producer and exporter has submitted that raw materials and utilities are procured at normal rates and not on special or subsidized rate. Further, no local/regional authority or State involved in setting prices/ quantities for sale and there is no restriction on export, Production or sale. It is also noted that M/s FFPS sells the subject goods in the domestic market to their exclusive distributor and their parent company namely M/s FUJIFILM (China) Investment Co., Ltd (FFCN) which in turn sells the subject goods to users in China PR.

M/s FUJIFILM (China) Investment Co., Ltd (FFCN)

Submissions made by the company

68. It is submitted that M/s FFCN sells the subject goods in the domestic market to various users after buying it from M/s FFPB and M/s FFPS. It is also submitted that this company is not involved in manufacture of subject goods in China PR and acts as shareholder for these two companies.

Submissions in response to disclosure statement

69. Post disclosure, these Fuji group of companies have reiterated their views made earlier before the Authority for grant of market economy treatment to them.

Kodak group of Companies

Submissions made by the company

70. The following claims have been submitted by Kodak (China) Graphic Communications Company Limited and Kodak (China) Investment Company Limited, China PR in respect of grant of market economy treatment.

Kodak (China) Graphic Communications Company Limited China PR (KCGCCL)-

71. It has been submitted that the shareholders are foreign owned companies who are indirectly wholly owned by Eastman Kodak Co., a U.S. Company. It has also been submitted that the shares of the company are held by Kodak (China) Company Limited and Kodak (China) Investment Company Limited. Both companies are indirectly wholly-owned by Eastman Kodak Co., a U.S. company. It has been submitted in their response that the Board of Directors (appointed by shareholders) controls the company and there is no director of the company of Chinese nationality. It has also been submitted that the operations and management of the company are handled by the board of directors as appointed by the shareholders. The group entities or the shareholders do not participate in the day to day operations and business decisions of the company. It has been submitted that the digital thermal printing plates manufactured by the company can be freely exported from China without any interference/ control from the Chinese government. There are no legislative enactments or measures taken by the government to control export business of the company. It has further been submitted that there is no control of government or of any of government body on the operations of the Company and there is no export quota for product concerned. With regard to procurement of raw material, it has been submitted that Aluminum is the main Raw Material for production of product concerned, which is sourced from M/s. ***, China PR and also imported from *** Germany. The Company has taken loans from group companies and interest is paid on the same. It has further been submitted that all the sales are made to group companies in China and outside China PR and there are no restrictions or any condition imposed by the government for selection of vendors and local/ regional authority or State Government are not involved in the setting prices of products/quantities manufactured by the company. Further, it has been submitted that chamber of Commerce is not at all involved in the setting of export prices or quantities of the subject merchandise. It has also been submitted that the profits generated by the company from the overall sales are disposed in accordance with the decision made by the Board of Directors. It has also been submitted that the company is in loss position in the past years as it is a newly set up company and loss is financed by loan from group companies, which provided by Kodak group companies at market rate. Further, they have submitted that the bankruptcy and property laws of the country are equally applicable on the company. The Company does not have any special derogation or exemption and there are no restrictions on the distribution repatriation of profits and repatriation of capital invested. It has also been submitted that the FX rates in SAP are updated daily using Reuters from early morning US time the day before so every country can use the same rate for a 24 hour period and the company is free to use the currency as per its own requirement and decisions. Further, the company has never been involved in barter trade. They have also stated that they do not have any group company into manufacturing or exporting of product under investigation i.e. digital thermal printing plates in China and the parent company does not own or control any other manufacturer/ exporter of digital thermal printing plates in China other than KCGCCL

Kodak (China) Investment Company Limited, China PR

Submissions made by the company

72. It has been submitted that the company is a wholly owned foreign enterprise incorporated in Hong Kong and the company is a part of Kodak Group promoted by Eastman Kodak Company, USA. The Company purchases digital thermal printing plate manufactured by KCGCCL, China and is engaged in marketing and distribution of such products in China. The Company sells such merchandise through distributors and in certain cases to end customers as well. The operations and management of the company are handled by the board of directors as appointed by the shareholders. The group entities or the shareholders do not participate in the day to day operations and business decisions of the company. It has been submitted that there is no control of government or of any of government body on the operations of the company. Further, the Company is not engaged in export of goods and is primarily engaged in marketing and distribution of goods in China. It has further been submitted that the product concerned does not fall under any such list for export provisions or licensing and there is no export quota for product concerned. It has been submitted that Company is not involved in production of product concerned. The product concerned sold by the company in domestic market is manufactured by Kodak (China) Graphic Communication Co Limited – a related company.
73. It has been submitted that the Company purchases all its merchandise from KCGCCL- a Kodak Group company and sells such goods in the domestic market in China. There is no role for the local/regional authority or state in determining the price or quantities. Prices and volumes are determined as per demand and supply prevailing in the domestic market. The sales prices of the goods are determined based on negotiations with customers which in turn are influenced by competitive pricing situation in China. The prices are not subject to review by any governmental organization. Sample copies of purchase orders are enclosed for reference. The Company is not engaged in export of the product concerned. All domestic sales prices are negotiated by the company independently with its customers. Further, the Chamber of Commerce is not at all involved in the setting of export prices or quantities of the subject merchandise. It has also been submitted that no local or regional authority or State is involved in setting prices/quantities. No special authorization is needed, as long as the company produces, sells the products within the business scope of the business license which is enclosed.
74. It has further been submitted that no public officers or government agents are members of the Board of directors or executives. Further, it has been claimed that there is one shareholder of the company which is Kodak (China) Ltd. It has further been submitted that the Board of Directors (appointed by shareholders) controls the company. The company has no relationship with any national, provincial, or local government, including ministries or offices of those governments. With regard to restrictions on the use of company's export revenues, it has been submitted that there are no such restrictions. The Company is primarily engaged in domestic sales in China and therefore there are no exports made by the Company. Further, the bankruptcy and property laws of the country are equally applicable on the company. The Company does not have any special derogation or exemption. The Company is a China VAT tax payer for its China domestic trading business and it regularly files its VAT return to China tax authority on monthly basis. Foreign exchange rates in SAP are updated daily using Reuters from early morning US time the day before (as such all the entities in the Kodak group can use the same rate for related foreign exchange activities within a 24 hour period, e.g.

purchase of input, conversion of the proceeds of export sales, etc). The company is free to use the currency as per its own requirement and decisions. It has been further submitted that the company has never been involved in barter trade.

75. Following the disclosure statement, M/s KCGCCL and M/s KCICL have reiterated their views made earlier by them during the course of the investigations. In particular, they have requested the Authority to grant them market economy treatment in view of the responses given by them.

Submissions in response to disclosure statement

76. Post disclosure, Kodak group of companies have reiterated their views made earlier before the Authority for grant of market economy treatment to them.

M/s Lucky Huaguang Graphics Co. Ltd. China PR (Lucky)

Submissions made by the company

77. The following claims have been submitted by M/s Lucky Huaguang Graphics Co. Ltd. , China PR (Lucky) in respect of grant of market economy treatment.

It is submitted that M/s Lucky Huaguang Graphics Co. Ltd is a subsidiary of LUCKY FILM GROUP OF CHINA, Enterprise owned by the whole People (enterprise legal person of state owned close cooperation) China enterprise. The company is involved in various business, however, LUCKY HUAGUANG GRAPHICS CO LIMITED is the only entity involved in production and sales of product concerned. It has been stated that there is no control of any third person or another person commonly control a third person (e.g. a joint venture). There is no control of government of any of government body on exports. It has been submitted that product concern does not fall under any such list for export provisions or licensing. It has been submitted that Aluminum is the main Raw Material for production of product concern, which is sourced from Mingtai. However, the Prices are determined as per market forces. With respect to various utilities, it has been submitted that Power and water is sourced from Nanyang power company and Nanyang water company respectively. However, it has been submitted that the Company is paying market price for power and there is no preferential prices available to the company. With respect to sourcing of raw material, it has been submitted that there is no restrictions or any condition imposed by the government. Company is free to decide its sourcing. Sourcing of key raw material is decided based on quality of input required and price is secondary. Once quality is tested and passes, only then a supplier is approved and even after that input received is tested regularly for quality test and every time, it has to pass the test. There is no role the local/regional authority or state to determine the price or quantities. Prices and volumes are determined as per demand and supply and cost of production of product concern. The Chamber of Commerce is not at all involved in the setting of export prices or quantities of the subject merchandise. No public officers or government agents are members of the Board of directors or executives. The executives are chosen either from internal promotion or recruitment from the market with reference to their working experience and capabilities. It has also been submitted that the company does not get any incentive on export sales. It is common practice throughout the world to allow zero VAT burden on export. Therefore VAT paid on inputs is refunded by the Government. The Company gets

13 % as VAT refund. All sales in the domestic market are undertaken by the company itself.

Views of the Domestic Industry on the issue of MET treatment and dumping margin

78. The following are the views of the domestic industry:

- i. Para 8(2) of Annex I to Antidumping Rules 1995 casts a presumption that any country that has been determined to be, or has been treated as NME country for purposes of an anti-dumping investigation by the Authority themselves or by the competent authority of any WTO member country during the three year period preceding the investigation, shall be treated as a NME country. The Authority itself, in every investigation conducted by it in the last three years, has treated China PR as a Non-Market Economy country. It is well known that almost every WTO member including USA and the European Union have repeatedly been treating China PR as a NME country.
- ii. Proviso to Paragraph 8(2) of Annex I to the Antidumping Rules 1995 provides that exporters may rebut the presumption by providing information and evidence that establishes China PR is not a NME country. However, in this case, none of the exporters have provided any evidence to establish that China PR is not a NME country. No exporter has made any claim in this regard. Therefore, China PR shall be treated as a NME country for the purposes of this investigation.
- iii. Paragraph 8(3) of Annex I to AD Rules provides that individual exporters may provide information and evidence to establish that market economy conditions prevail for them. The claim made by the co-operating exporters under this paragraph however should not be accepted for various reasons provided in subsequent paragraphs.
- iv. Aluminium industry is ‘encouraged’ by the Government of China with active State intervention in its business promotion:
 - a. The Chinese government issued the “Catalogue of Major Industries, Products, and Technologies Encouraged for Development in China” (Encouraged Industries Catalogue) in 2000 which identifies 526 products, technologies, and infrastructure facilities for business promotion. One of them is ‘aluminium’. Another one is ‘Fully automatic high-speed multi-color printing’. These two cover the raw material as well as the product under consideration. Both the industries are treated in China as ‘encouraged’ industries.
 - b. The Decision of the State Council on Promulgating the “Interim Provisions on Promoting Industrial Structure Adjustment” for Implementation (No. 40 (2005)) (Decision 40) references the Directory Catalogue on Readjustment of Industrial Structure (Industrial Catalogue), which outlines the projects which the Government of China PR deems “encouraged”, “restricted” and “eliminated” and describes how these projects will be considered under government policies. Aluminum is mentioned as an industry in the Industrial Catalogue as an “encouraged project.” For the “encouraged” projects, Decision 40 outlines several support options available from the government, including financing.

- c. Guidelines on Acceleration of the Adjustment of the Aluminum Industry Structure (Aluminum Industry Guidelines), issued by the GOC in 2006, discusses support that is to be provided to producers of various types of aluminium products. For instance, under the heading “Increase Industry Concentration, Encourage Comprehensive Usage and Conservation of Resources,” the Aluminum Industry Guidelines state:
 - i. Create favorable conditions for enterprises M&A and restructuring, and accelerate enterprises' merger and restructuring via economic means.
 - ii. Support aluminum, electrolytic aluminum, and aluminum processing enterprises to undertake merger and restructuring, establish internationally competitive enterprise group, realize advantage complementation, and increase industry concentration.
 - iii. Encourage private capital and foreign capital to participate in the reform, restructuring and transformation of state owned enterprises.
 - iv. Encourage backbone enterprises to keep raising technology and management levels, accelerate medium and small-sized aluminum processing enterprises' technology transformation, and improve resource utilization.
- d. The Aluminum Industry Guidelines also make reference to lending activities. Under the heading, “Strengthen the Coordination and Cooperation of Credit Policy and Industrial Policy and Establish Withdrawal Mechanism Under the Policies,” the Aluminum Industry Guidelines state:

It is required to strictly abide by the rule that the minimum self-owned capital requirement for electrolytic aluminum projects shall be no less than 35 percent of the total investment. Financial institutions shall rationally allocate the lending credits taking into account the national macroeconomic adjustments, industrial policies, and ordinary lending principles. Financial institutions may continue to provide credits to oxide aluminum or electrolytic aluminum enterprises that are in compliance with national industrial policies and the market entrance threshold, provided such lending is in accordance with the ordinary lending principles. No credit shall be provided to those enterprises that do not conform to national industrial policies, do not satisfy the market entrance threshold, have obsolete manufacturing processes, have been classified as prohibited, or have been ordered to cease operation. In the event that credits are mistakenly provided to such enterprises, the financial institutions shall take appropriate measures to reclaim the credits and avoid financial risk.

- 79. It has also been stated that support, in the form of financing, is also discussed in the “Nonferrous Metal Industry Adjustment and Revitalization Plan” (Nonferrous Metal Plan) that was issued by the GOC in 2009. Under the heading “Increase Dedication to Technology Improvement and Technology Reform” the Non-Ferrous Metal Plan states:

Set aside some funds from new central investment. Use loan interest subsidies to support R&D and technology reform in the nonferrous metals industry. Increase the level of financial support directed toward reform of energy conservation technologies. The Nonferrous Metal Plan further references financing to the aluminum industry under the heading, “Continue to Implement the Financing Policy of ‘Encouragement and Discouragement’, ”Increase financing support to backbone enterprises in the nonferrous metals industry. Provide support to certain enterprises in issuing stock, enterprise bonds, and corporate bonds. Enterprises

eligible to receive such support are those which are engaged in projects which, in addition to adhering to investment management prescriptions, are in compliance with industry policy as well as relevant environmental and land regulations; and implement acquisitions, restructuring, "Going Abroad" and technological reformation.

80. It has been submitted that the prices of major raw material Aluminum is controlled by the Chinese Government. None of the producers or exporters have explained as to how the prices of Aluminum paid by them can be considered as reflecting market economy conditions. The Authority has in many cases rejected NME status where the exporter has failed to establish the prices of the major raw material to be under market economy conditions.
81. It has been stated that while the users of aluminum across the world follow London Metal Exchange ('LME') as the price index, Chinese industries follow the Shanghai Metal Exchange ('ShFE'). The local producers in China buy aluminum at prices based on ShFE. The ShFE is highly controlled by the Government and ShFE prices cannot be said to be fully market driven. The exercise of Government control in the functioning of ShFE and the regulations of commodity prices by the Government is evident from "Interim Provisions for the Control of Shanghai Metal Exchange" framed by the Chinese Government. Entire administration board of the ShFE is formed by Government of China PR and not a single person on the administrative board is independent from Government control.
82. The domestic industry has represented that the Canadian Authorities in their Anti-dumping and subsidy investigation against 'Certain Aluminum Extrusions originating in or exported from China PR' have concluded that there is government intervention in the operation of Aluminium industry in China PR. Further, the European Union council regulation (EC) No 925/2009 on imposing a definitive anti-dumping duty on imports of certain Aluminium Foil originating in Armenia, Brazil and the People's Republic of China' observed as under.

This visit confirmed that the State has a primary role in the price setting on the SHFE and interferes with the price setting mechanisms, in particular given its position as both a seller of primary aluminium and a purchaser via the State Reserve Bureau and other State bodies. In addition, the State sets daily price limits via the rules of the SHFE which have been approved by the state Regulator, the China Securities Regulatory Commission (the 'CSRC'). It is also clear that the SHFE is a closed exchange for Chinese-registered companies and Chinese citizens and that there is no effective arbitrage between the SHFE and international exchanges outside China. This is evidenced in the price significant differences between the SHFE and the international exchanges such as the LME. Furthermore where a SHFE futures contract ends in physical delivery, this can only take place in an approved warehouse within the PRC, unlike international exchanges where delivery can take place worldwide. These delivery rules ensure that the domestic Chinese market remains insulated from the worldwide market and that the price distortion benefits only Chinese companies.

83. The domestic industry has stated that the responses filed by the cooperating exporters are highly inadequate/ incomplete and by themselves prove that the exporters operate under NME conditions. With regard to the submissions made by M/s Lucky Huaguang Graphics Co Ltd that it is wholly owned by the Government of China, they have stated that how even by being state owned, the exporter

distanted itself from Government Interference in decision making and functioning. With regard to submissions made by M/s Fuji Group - Fujifilm Printing Plate Co Ltd, it has been stated that one other related manufacturer of the subject goods in China PR has not filed its questionnaire response nor has claimed MET. It has further been added that when a related company engaged in production and export of the subject goods has not even claimed MET status, the group company that has sought MET shall also be not granted MET. With regard to submissions made by M/s Kodak Group, it has been submitted that the exporter has failed to establish that the prices of the major raw material are decided under market economy conditions.

84. Following the disclosure statement, the domestic industry has submitted its views regarding incomplete response filed by responding producers and exporters. In particular, they have drawn the attention of the Authority about the non filing of response from FFIN and FFCN. They have also requested the Authority to construct the export prices as exports have been made to related companies.

EXAMINATION BY THE AUTHORITY

85. The Authority notes that in the past three years China PR has been treated as non-market economy country in the anti-dumping investigations by other WTO Members. Therefore, in terms of Para 8 (2) of the annexure 1 of AD rules, China PR has been treated as a non-market economy country subject to rebuttal of the above presumption by the exporting country or individual exporters in terms of the above Rules for the purposes of present determination.
86. As per Paragraph 8 of the Annexure I to the Anti Dumping Rules as amended, the presumption of a non-market economy can be rebutted if the exporter(s) from China PR provide information and sufficient evidence on the basis of the criteria specified in sub paragraph (3) in Paragraph 8 and establish to the contrary. The cooperating exporters/producers of the subject goods from China are required to furnish necessary information/sufficient evidence as mentioned in sub-paragraph (3) of paragraph 8 in response to the Market Economy Treatment questionnaire to enable the Designated Authority to consider the criteria enumerated therein.
87. The Authority notes that responding producers/exporters of the subject goods from China PR have submitted their questionnaire responses and they have submitted response to the market economy questionnaire consequent upon the initiation notice issued by the Authority and sought to rebut the non-market economy presumption. The questionnaire responses and the market economy responses of the responding producers and exporters have been examined for determination of normal value of the responding producers/exporter of the subject goods from the subject country as follows.

Examination of MET response of M/s Lucky Huaguang Graphics Co. Ltd (Lucky)

88. It is noted that M/s Lucky Huaguang Graphics Co. Ltd, a subsidiary of LUCKY FILM GROUP OF CHINA, Enterprise is a state owned company. During the examination, it was noted that the company sources its major input from another state owned company and no evidence has been placed by the company that its prices reflect the market prices of inputs. In view of the fact that there is control of state in the said company and the company is state owned and also the fact that

majority of the directors are from state owned company, it is considered appropriate not to grant market economy treatment to M/s Lucky.

Examination of MET Response of Fuji group of companies

89. The examination of market economy status was carried out in respect of following three Fuji groups of companies who have responded to the initiation notification and submitted response to MET questionnaire. The Fuji group company has responded to the MET questionnaire. In fact, M/s Fuji Film (India) Ltd (FFIN) have also responded before the Authority and their responses have been placed in the public file. The following companies (producers and exporters from China PR) have responded from Fuji group.

- a) Fujifilm Printing Plate Co., Ltd. ,China (FFPB)
- b) Fujifilm Printing Plate (China) Co., Ltd (FFPS), China
- c) Fujifilm (China) Investment Co., Ltd (FFCN)

90. During the examination of response of these producers and exporters from China PR, it was noted that all three of them had claimed market economy status citing the fact that these M/s FFPB and M/s FFPS were owned by M/s FFCN which in turn is owned by M/s Fujifilm Corporation, Japan which is an independent company and all three companies have no state holdings. Their claim has been examined and it was noted that M/s FFPB was formed after M/s FFCN acquired the *** % stake of another company namely M/s *** which is a state owned company in 2007. Thus, it was noted that FFCN is a wholly owned subsidiary of FUJIFILM Corporation, since inception in 2001, having Business Licence, with registered capital of *** million USD. It continues to be wholly owned subsidiary of Fujifilm Corporation, Japan during the Period of Investigation. It is also noted that the sole shareholder of FFPS and FFPB is FFCN, having *** shareholding. Thus, it is noted that all the three companies are presently foreign owned companies, and FUJIFILM Corporation is the shareholder. On the basis of the documents provided and after examination, it is held that the earlier transformation from a joint venture to a wholly owned foreign company was done at market value based on independent valuation. It was also noted that none of the board of directors are from state owned company or state in these two companies. With regard to procurement of utilities and its prices, it was noted that these prices reflect normal prevailing market prices. It was also noted that FFPS and FFPB produces and sells the subject goods to their parent company FFCN, which in turn sells these goods to the various customers as per the orders received. However, both these companies i.e M/s FFPS and M/s FFPB export the subject goods directly to India and other countries. Further, it is noted that all the related companies of M/s Fuji group which are in the business of production and sales of subject goods in China PR and other countries had filed their responses and non confidential versions were duly placed in the public file for information to all concerned.

91. It is noted that the major raw material, Aluminium is being procured by the exporters locally from domestic miners in China PR. It is also noted that a significant portion of their procurement is done from state owned companies it is also noted that the prices are fixed with regard to the futures at the Shanghai Metal Exchange for ingots and conversion. During the investigation, the domestic

industry has submitted that the Aluminum industry in China PR is being controlled by the Chinese Government through their Shanghai Metal Exchange. The Authority has examined the matter and notes that the major raw material for producing the product concerned is aluminum. Therefore, the authority examined whether the aluminum industry in China is operating under market economy conditions. The authority notes that the Government of China has issued a “*Catalogue of Major Industries, Products, and Technologies Encouraged for Development in China*” (Encouraged Industries Catalogue) in 2000. The said catalogue identifies ‘aluminium’ as well as *Fully automatic high-speed multi-color printing*’ among others as ‘encouraged’ industries. GOC’s State Council promulgated the “*Interim Provisions on Promoting Industrial Structure Adjustment*” for Implementation (Decision No.40 of 2005). The interim provisions refer to an industrial catalogue stating how GOC deems various industrial projects to be “encouraged”, “restricted” and “eliminated”. The Industrial catalogue also describe how the projects will be considered under various government policies. Aluminum is mentioned as an industry in the Industrial Catalogue as an “encouraged project.” For the “*encouraged*” projects, Decision 40 outlines several support options available from the government, including financing. GOC has also issued the *Guidelines on Acceleration of the Adjustment of the Aluminum Industry Structure*” (Aluminum Industry Guidelines) in 2006. The Aluminium Industry Guidelines discuss support to be provided to producers of various types of aluminium products. For instance, under the heading “Increase Industry Concentration, Encourage Comprehensive Usage and Conservation of Resources,” the Aluminum Industry Guidelines state the following:

- a) Create favorable conditions for enterprises M&A and restructuring, and accelerate enterprises' merger and restructuring via economic means.
- b) Support aluminum, electrolytic aluminum, and aluminum processing enterprises to undertake merger and restructuring, establish internationally competitive enterprise group, realize advantage complementation, and increase industry concentration.
- c) Encourage private capital and foreign capital to participate in the reform, restructuring and transformation of state owned enterprises.
- d) Encourage backbone enterprises to keep raising technology and management levels, accelerate medium and small-sized aluminum processing enterprises' technology transformation, and improve resource utilization.

It is also noted that the Aluminum Industry Guidelines also make reference to lending activities. Under the heading, “Strengthen the Coordination and Cooperation of Credit Policy and Industrial Policy and Establish Withdrawal Mechanism Under the Policies,” the Aluminum Industry Guidelines state:

It is required to strictly abide by the rule that the minimum self-owned capital requirement for electrolytic aluminum projects shall be no less than 35 percent of the total investment. Financial institutions shall rationally allocate the lending credits taking into account the national macroeconomic adjustments, industrial policies, and ordinary lending principles. Financial institutions may continue to provide credits to oxide aluminum or electrolytic aluminum enterprises that are in compliance with national industrial policies and the market entrance threshold, provided such lending is in accordance with the ordinary lending principles. No

credit shall be provided to those enterprises that do not conform to national industrial policies, do not satisfy the market entrance threshold, have obsolete manufacturing processes, have been classified as prohibited, or have been ordered to cease operation. In the event that credits are mistakenly provided to such enterprises, the financial institutions shall take appropriate measures to reclaim the credits and avoid financial risk.

Additionally, under the heading “Enhance the Implementation of Environmental Protection Regulations, Eliminate Capacities,” the Aluminum Industry Guidelines state that different “financing means” shall be used “to support enterprises’ environmental protection and energy savings.” It is also noted that support, in the form of financing, is also discussed in the “*Nonferrous Metal Industry Adjustment and Revitalization Plan*” (*Nonferrous Metal Plan*) that was issued by the GOC in 2009. Under the heading “Increase Dedication to Technology Improvement and Technology Reform” the Nonferrous Metal Plan states:

Set aside some funds from new central investment. Use loan interest subsidies to support R&D and technology reform in the nonferrous metals industry. Increase the level of financial support directed toward reform of energy conservation technologies. The Nonferrous Metal Plan further references financing to the aluminum industry under the heading, “Continue to Implement the Financing Policy of ‘Encouragement and Discouragement’, ”Increase financing support to backbone enterprises in the nonferrous metals industry. Provide support to certain enterprises in issuing stock, enterprise bonds, and corporate bonds. Enterprises eligible to receive such support are those which are engaged in projects which, in addition to adhering to investment management prescriptions, are in compliance with industry policy as well as relevant environmental and land regulations; and implement acquisitions, restructuring, “Going Abroad” and technological reformation.

92. On the basis of above, it is noted that there is significant government interference in the aluminum industry in China.

93. it is also noted that the Canadian Authorities in their Anti-dumping and subsidy investigation against ‘Certain Aluminum Extrusions originating in or exported from China PR’ have concluded that there is government intervention in the operation of Aluminium industry in China PR. The Canadian Authorities have referred to an annual report (Form 20-F) filed with the United States Securities and Exchange Commission (SEC) by the Aluminum Corporation of China Limited (Chalco) which provides some insight into the oversight role of the Government of China in the economy and aluminum industry in general. Chalco is a subsidiary of the Aluminum Corporation of China Limited (Chinalco), which is one of the state-owned enterprises. The Canadian Authorities have quoted in their finding that Chalco has stated the following regarding the status of the economy in China and their own risks related to conducting business in China:

A significant portion of our business, assets and operations are located in China. The economy of China differs from the economies of most developed countries in many respects. The economy of China has been transitioning from a planned economy to

a market-oriented economy. Although in recent years the PRC government has implemented measures emphasizing the utilization of market forces for economic reform, the reduction of state ownership of productive assets and the establishment of sound corporate governance in business enterprises, a substantial portion of productive assets in China are still owned by the PRC government. In addition, the PRC government continues to play a significant role in regulating industry by imposing industrial policies. It also exercises significant control over China's economic growth through the allocation of resources, controlling payment of foreign currency-denominated obligations, setting monetary policy and providing preferential treatment to particular industries or companies. Some of these measures benefit the overall economy of China, but may have a materially adverse impact on us.

94. In view of the significant government interference in the aluminum industry in China, the Authority notes that it is not appropriate to hold that Chinese aluminum industry is operating under market economy conditions. Further, the authority examined the prices of aluminum prevailing in China. The domestic industry has claimed that aluminum prices as reflected in the Shanghai Metal Exchange are significantly lower compared to LME prices. None of the exporters have rebutted those claims with appropriate evidence.

It is noted that while the users of aluminum across the world follow London Metal Exchange ('LME') as the price index, Chinese industries follow the Shanghai Metal Exchange ('ShFE'). The local producers in China buy aluminum at prices based on ShFE. It is noted that the ShFE is controlled by the Government and ShFE prices cannot be said to be fully market driven. In this regard, the exercise of Government control in the functioning of ShFE and the regulations of commodity prices by the Government is evident from "Interim Provisions for the Control of Shanghai Metal Exchange" framed by the Chinese Government, relevant portions of which are extracted below:

*Article 4: The task of the Exchange is to direct and **control dealings** in metal material spots and futures....."*

Thus, it appears that the object of establishing ShFE is thus to exercise control by the Government of China PR over the dealings in the metal by the miners and users. This establishes that the prices in the ShME are determined by the Government.

Article 6 The administration board of the Shanghai Metal Exchange (hereinafter referred to as "the administration board") is formed by the Metal Material Department, the General Management Department and the Foreign Economic Cooperation Department of the Ministry of Materials and Supplies and the Planning Committee, the Office of Economic Reform, the Bureau of Materials and Supplies, the Finance Bureau, the Administration for Industry and Commerce and the Pricing Bureau of the Shanghai Municipal People's Government. "

Thus, it is noted that the entire administration board of the ShFE is formed by Government of China PR and none of the persons on the administrative board is independent from Government control. Further, the Authority notes that European

Union wide council regulation (EC) No 925/2009 on imposing a definitive anti-dumping duty on imports of certain Aluminium Foil originating in Armenia, Brazil and the People's Republic of China' has held as follows:

This visit confirmed that the State has a primary role in the price setting on the SHFE and interferes with the price setting mechanisms, in particular given its position as both a seller of primary aluminium and a purchaser via the State Reserve Bureau and other State bodies. In addition, the State sets daily price limits via the rules of the SHFE which have been approved by the state Regulator, the China Securities Regulatory Commission (the 'CSRC'). It is also clear that the SHFE is a closed exchange for Chinese-registered companies and Chinese citizens and that there is no effective arbitrage between the SHFE and international exchanges outside China. This is evidenced in the price significant differences between the SHFE and the international exchanges such as the LME. Furthermore where a SHFE futures contract ends in physical delivery, this can only take place in an approved warehouse within the PRC, unlike international exchanges where delivery can take place worldwide. These delivery rules ensure that the domestic Chinese market remains insulated from the worldwide market and that the price distortion benefits only Chinese companies.

Further, it is noted that the Aluminum prices as quoted in the ShFe are significantly lower than the prices quoted in LME. Thus, the producers and exporters have not substantiated as to whether the cost of major raw material substantially reflect the market value. *The comments made by responding producer and exporter in response to disclosure statement are reiteration of their earlier submissions made to the Authority which has been examined.* For the reasons stated above, *and after examination of responses* , the Authority holds that aluminium prices in China are not market determined and that digital printing plates manufacturing industry in China is not operating under market economy conditions. Accordingly, the authority rejects the MET claims of the exporters in this investigation.

Examination of MET Response of Kodak Group of companies

95. The examination of market economy status was carried out in respect of following three two group of companies of Kodak who have responded to the initiation notification and submitted response to MET questionnaire.
- a) Kodak (China) Graphic Communications Company Limited, Kodak, China PR (KCGCCL)
 - b) Kodak (China) Investment Company Limited, China PR (KCICL), China PR

During the examination of response of these two producers and exporters from China PR, it was noted that both of them have claimed market economy status. It has been noted that M/s KCGCCL is owned by M/s **KCICL** and M/s Kodak (China) company Ltd and both these companies are owned by M/s Kodak China Ltd which is owned by Eastman Kodak company through its holding company M/s Eastman Kodak Holdings BV. It is also noted that M/s KCGCCL is a wholly foreign-owned company incorporated in Xiamen, Fu Jian Province, the People's Republic of

China. It was also noted that M/s KCICL is the domestic seller of the subject goods in China PR and has no participation in export sales to India during the POI. It has been noted from their submissions and after onsite verifications that these companies are independent companies and all these companies have no state holdings. It has also been noted that these companies have not been transformed from any state companies. It is noted that M/s KCGCCL is the producer of the subject goods in China PR and exports the same to India directly and also through its subsidiary M/s Kodak Singapore Ltd and third countries (Singapore, Korea, New Zealand, Australia. However, all shipments to India are made directly from their factory at Xiamen to India. It was also noted that none of the board of directors are from state owned company or state in these two companies. With regard to procurement of utilities and its prices, it was noted that these prices reflect normal prevailing market prices.

With regard to procurement of raw material it is noted that major raw material Aluminum is significantly procured from domestic market by the exporters locally from domestic miners in China PR. Though the producer and exporter has submitted that overwhelming portion of their raw material requirements for manufacture and sale of digital plates in China PR and India are met through by imports and from M/s ***, a non state owned company, the producer and exporter have not rebutted the fact that a significant share of raw material requirements are met through domestic companies on the basis of prices prevailing in Shanghai metal exchange. The comments made by responding producer and exporter in response to disclosure statement is reiteration of their earlier submissions made to the Authority which has been examined

This, along with reasons explained by the Authority in para 90 to 93 as above, and after examining the responses , the Authority holds that aluminum prices in China are not market determined and that digital printing plates manufacturing industry in China is not operating under market economy conditions. Accordingly, the authority rejects the MET claims of the exporters in this investigation.

Issues concerning determination of Normal Value including constructed normal value for producers and exporters from China PR and Japan – Arguments by exporters, importers and users

96. Submission on Normal Value

- There is no dumping of digital plates. The constructed normal value is highly exaggerated.
- For the purpose of computation of normal value aluminum cost is considered instead of aluminum plates cost. Conversion cost of aluminum plate is also inflated.
- Technova's selling and distribution cost is also very high and same is considered for constructing normal value.
- Technova has suppressed there are significant selling & distribution costs for producing the product. Since these costs are not incurred by the foreign producers while selling the product in the Indian market and these costs are incurred by the

importers and further since these costs are quite significant in the present product, inclusion of these costs in normal value has clearly led to inflated normal value.

- Technova has claimed higher labour cost prevailing in Japan but productivity of India is considered, whereas productivity of Japan is higher .
- The high dumping margin claimed is by highly inflating the normal value.
- The level of trade in respect of imports and domestic industry, in any case, is not the same. In respect of imports, the Designated Authority has considered the import price from foreign producers to Indian resellers. Thus, import price is the price to resellers. However, in case of domestic industry, the Designated Authority has considered the selling price and cost of production of the domestic industry to the end customers and has compared the same with import price to the resellers. The selling price to resellers, in any case, cannot be the same as compared to selling price to end consumers, more so when individual consumers are so small and 1.5-2 lacs printers are being serviced by 4-5 suppliers. the import price is required to be adjusted by 20% to account for the price difference between import price and resale price. The Designated Authority may consider the selling & distribution costs of Technova for the purpose.
- The Designated Authority considers import price from China as international prices for determining normal value while adopting constructed cost of production methodology
- Since the construction of the normal value is based on the inflated cost of production of domestic industry resulting in determinations of artificial dumping and injury margins.
- Post disclosure, the domestic industry has requested disclosure of elements of conversion cost and reasonable profit margin taken by the Authority in determination of CNV.

Examination By Authority of normal value

- In case of Japan, normal value is not constructed; rather normal value considered for cooperating producer and exporter is as per the information submitted by the responding exporter.
- With regard to price of litho grade aluminum plates taken into account for construction of normal value for producers and exporters from China PR, it is noted that the Authority has taken into account the import price of litho grade aluminum into India as imported by domestic industry for the POI. It may be recalled that for the purpose of initiation, the Authority had taken LME price of Aluminum for the POI and the conversion cost formula as per domestic industry. However, it was noted that the constructed normal value based on LME price was indeed higher. Therefore the Authority has taken into account actual litho grade imports price into India for the purpose of constructed normal value. The Normal value for china PR is based on cost of imported litho grade aluminium plate as procured by domestic industry, and conversion cost of domestic industry as verified by the Authority and reasonable profit margin.. Further, it is noted that NIP as well as CNV have been determined at ex factory level by the Authority.

97. As noted in the earlier paragraphs relating to dumping, Under the above mentioned circumstances, the Authority is not in a position to apply Para 8 of Annexure 1 to the Rules to the above named Chinese companies and has to proceed in accordance with Para 7 of Annexure- I to the Rules. According to these Rules, the normal value in China can be determined on any of the following basis:
- a. On the basis of the price in a market economy third country, or
 - b. The constructed value in a market economy third country, or
 - c. The price from such a third country to other countries, including India.
 - d. If the normal value cannot be determined on the basis of the alternatives mentioned above, the Designated Authority may determine the normal value on any other reasonable basis including the price actually paid or payable in India for the like product duly adjusted to include reasonable profit margin.
98. The Authority notes that for determination of normal value based on third country cost and prices, the complete and exhaustive data on domestic sales or third country export sales, as well as cost of production and cooperation of such producers in third country is required. It is noted that no information with regard prices and costs prevalent in these markets could be accessed and also the responding Chinese companies have made no claim with regard to an appropriate market economy third country. Therefore, for the purpose of final determination, the Authority has constructed the normal value based on any other reasonable basis. Therefore, the normal value has been constructed based on cost of imported litho grade aluminum plate as procured by domestic industry, and conversion cost of domestic industry as verified by the Authority and reasonable profit margin. With regard to arguments made by the domestic industry, it is noted that the elements of conversions cost are in line with NIP determined for domestic industry which include the finance cost as well. The reasonable profit margin taken by the Authority is consistent with its past practices.

Other Issues raised by Exporters and Examination by the Authority for determination of Dumping margins

99. Various producers and exporters from subject countries have submitted that there is significant difference in cost and price of three types of digital plates i.e violet plates, thermal plates and CTCP plates (or UV CTP plates) and these plates should be examined separately for the purpose of determination of dumping margin and injury analysis. The matter has been considered and based on examination of all issues in this case, it was considered appropriate to compare the imported subject goods in three types with domestically produced goods for determination of dumping margins and thereafter, one weighted average dumping margin has been determined for subject goods as a whole.

Export Price And Dumping Margin for responding producers and exporters from China PR (KCGCCL, M/s Kodak Singapore (Pte) Ltd, FFPB, FFPS, Lucky)

100. Separate export price to India in respect of all three types have been determined for each types of product under consideration as claimed by these responding producers and exporters and accepted by the Authority after examination and verifications. Price adjustments have been claimed on account of

adjustments like freight, insurance, warranty etc which have been accepted after verification of data of co-operative exporter/producer. With regard to arguments by the domestic industry about construction of the export price from Kodak and Fuji, it is noted that their export prices are in line and within the range of export prices made to independent customers and therefore they have been accepted. The export sales to India (net of all the adjustments claimed by the exporters and accepted by the Authority), were compared with the corresponding constructed normal values of their types to determine the dumping margin. These dumping margins for individual types were weighted averaged for determination of a single dumping margin for the responding exporter. After the analysis of the exporter's data, the dumping margin is worked out as mentioned in the table ahead.

Dumping margin for related producers and Exporters

101. It is noted that in the subject investigations many cooperating producers and exporters are related to each other and form a group of related companies. It has been the consistent practice of the Authority to consider related exporting producers or exporting producers belonging to the same group as one single entity for the determination of a dumping margin and thus to establish one single dumping margin for them. This is being done because calculating individual dumping margins might encourage circumvention of anti-dumping measures, thus rendering them ineffective, by enabling related exporting producers to channel their exports to India through the company with the lowest individual dumping margin.

102. In accordance with the above, the related exporting producers belonging to the same group were regarded as one single entity and attributed one single dumping margin which was calculated on the basis of the weighted average of the dumping margins of the cooperating producers in the respective groups

Export Price And Dumping Margin for Non cooperating producers and exporters from China PR

103. Separate export price to India in respect of all three types have been determined for each three types of product under consideration as per facts available. Price adjustments have been allowed on the basis of facts available. The export sales to India (net of all the adjustments) were compared to the corresponding constructed normal values of the product type to determine the dumping margin. These dumping margin for individual types were weighted averaged for determination of a single dumping margin for the non cooperating producers and exporters. After the analysis of the data, the dumping margin is worked out as mentioned in the table.

Normal value for M/s Fujifilm Corporation, Japan

Submissions by producer and exporter

104. M/s FUJIFILM Corporation, Japan has submitted response to the exporters questionnaire. It is noted that M/s Fujifilm Corporation is 100% owned by FUJIFILM Holdings Corporation. It is also noted that the responding producer and exporter has sold subject goods in their domestic market to their affiliate company

M/s Fuji film Graphic systems (FFGS) which in turn has sold the subject goods to various dealers/distributors/ sales subsidiaries who in turn have sold the subject goods to dealers/independent users. It is also noted that in exports to India, they have stated that products sold to Indian market are the same as those to Japanese market except for LP-NNV type which is not sold to Japanese market because no violet system is adopted by Japanese newspaper companies. It has further been stated that Process-less plate which is manufactured and sold in Japanese market are different from CTP plates sold in India. It has also been submitted that while existing offset plates, including both CTP plates and conventional plates, require chemistry for development, FUJIFILM process-less plates do not need such chemistry. Existing plates cannot be developed by the same way that can be applied to process-less plates. Vice versa, process-less plates cannot be developed by the same way for exiting plates. Therefore, they have submitted that their process-plates and existing plates cannot be replaced thus their process-less plates like PRO-T2 should be excluded from the subject of investigation.

Determination of Normal value for M/s Fujifilm Corporation, Japan

105. It was first determined that whether the total domestic sales of the subject goods by the producers/exporter in the subject country was representative when compared to their total sales of the subject goods concerned sold in the exporting country. Thereafter, it was examined whether their sales are under ordinary course of trade in terms of Rule 2 of the annexure I to the anti dumping rules. The normal value has been determined after taking into account domestic selling price of subject goods in their domestic market and adjustments with regard to inland freight. Insurance etc.

EXPORT PRICE AND DUMPING MARGIN for responding producer and exporter (M/s Fujifilm Corporation) from Japan

106. Separate export price to India in respect of two types of product under consideration have been determined as claimed by the responding producer and exporter and accepted by the Authority. Price adjustments have been claimed on account of adjustments like freight, insurance, warranty etc which have been verified and accepted. The export sales to India (net of all the adjustments claimed by the exporter), were compared with the corresponding normal values of the product type to determine the dumping margin. These dumping margin for individual types were weighted averaged for determination of a single dumping margin for the responding exporter. After the analysis of the exporter's data, the dumping margin is worked out as mentioned in the table .

Export Price And Dumping Margin for other producers and exporters from Japan

107. The export volume and price of subject goods to India from Japan have been examined. It has been noted from the detailed examination of transaction wise data of imports of subject goods from Japan that all the known subject goods exports from Japan have been made by M/s Fujifilm Corporation, Japan. There are no known exports of subject goods from any other company from that country. In view of the above, the dumping margin determined for M/s Fujifilm Corporation, Japan has been extended to all other producers and exporters, if any from Japan.

Producer	Exporter	DM US\$/Sq M	DM%	Group DM US\$/Sq M	Group DM %
Fujifilm Corporation, Japan	Fujifilm Corporation, Japan	***	45-55%	***	45-55%
Fuji Film Printing Plate Co. Ltd. China(FFPB)	Fuji Film Printing Plate Co. Ltd. China (FFPB).	***	10-20%	***	10-20%
Fuji Film (China) Corporation Ltd.(FFPS)	Fuji Film (China) Corporation Ltd.(FFPS)	***	10-20%	***	
M/s Kodak (china) graphics communication system Ltd.	M/s Kodak (china) graphics communication system Ltd.	***	0-10%	***	0-10%
M/s Kodak (china) graphics communication system Ltd.	Kodak Singapore PTe. Ltd.	***		***	
Lucky Huanguang Graphics Co. Ltd.	Lucky Huanguang Graphics Co. Ltd.	***	45-55%	***	45-55%
Any Other producer/exporter from China PR		***	80-90%	***	80-90%
Any Other producer/exporter from Japan	Others	***	45-55%	***	45-55%

E. INJURY

Submissions made by importers, exporters, users and user associations

108. The following issues have been raised by the interested parties representing importers, exporters, users and user associations on the issue of Injury

- a) It has been submitted that Technova increased their capacity three times from 6 Million Sqms to 18 Million Sqms during the period 2007-08 to 2010-11 and Production has increased from 2.54 Million Sq.Ms to 12.40 Million SqMs, an increase of almost five times. Further, their Capacity utilization increased to 69% in 2010-11.
- b) Exports Sales increased over 5 times from 0.16 Million SqMs to 0.83 SqMs during the period 2007-08 to 2010-11. The Market Share of the Petitioners has shown a steady growth from 51% in 2007-08 to 73% in 2009-10 and 71% in 2010-11.
- c) TechNova being the only plate manufacturing company in the country controls 71% of the domestic sales. While the company has achieved a phenomenal increase in

its all round performance, it is difficult to believe that their profits have come down so dramatically and still they continue to dump in money on capital equipment.

d) The number of employees has increased from the indexed figure of 100 in 2007-08 to only 158 in 2010-11. SQM per Employee increased from 9667 in 2007-08 to 29960 in 2010-11 i.e. over 3 times.

e) Technova has clearly pleaded before Safeguard authorities that it is suffering injury as a result of imposition of safeguard duty on aluminum products. Further, this safeguard duty was operative throughout the investigation period. The safeguard duty is no longer in force.

f) The sales price of the different imported plates is at least 5-7% higher than the sales price of the respective TechNova plates. While imported plates are getting sold at higher prices compared to the TechNova plates, one wonders as to how the said imports are causing injury to TechNova.

g) Thermal and Violet Plates are each a separate and distinguishable It was TechNova that caused market prices to decline, not imports. "Like Article" and should be examined separately.

h) The prices from Japan have been generally higher than that from China. It is perhaps for this reason, that the details of price suppression and price depression have not been indicated for China and Japan separately in the petition.

i) The claim of injury in the petition appears to be based on a grossly inflated cost of production. FFPB believes that aluminum constitutes a substantial component of the cost of production of printing plates that is about 50% or more. As against this the petitioner has claimed that the cost of aluminum is in the range of 35 to 40% of the total cost to make and sell. The Petitioner is misleading the Authority with a view to inflate the NIP, so as to create an evidence of injury, which is otherwise absent.

j) A large number of importers and users have represented that there is no justification in imposition of anti dumping duties. However, it has been submitted by these importers and users that should the Authority reject the request the users/importers for termination of the anti dumping investigations, separate reference prices for CtCP and CTP plates should be fixed by the Authority. It has also been submitted that one reference price may not be appropriate for CtCP and CTP plates.

k) Technova's profitability and ROI has improved, as per the Petition, losses have steeply declined in the last three years.

l) Technova's inventories are insignificant considering the range of product in terms of thickness, size, type etc. Full range is to be maintained for the customers throughout the country, considering these factors level of inventory is insignificant

m) There is positive growth in all volume and price parameters.

n) It has been submitted that earlier there were three plate manufacturers in India i.e M/s Technova imaging systems Pvt ltd, Stovac industries ltd and Lastra Neeraj pvt ltd. it has further been submitted that M/s Technova has monopolised the PS plate manufacturing by eliminating the two competitors. They have questioned the right of a monopolistic firm to plead for imposition of anti dumping duty on digital plate when they have 75% market share.

o) While the duty imposed on important printing rough materials and machinery are high, there are no restrictions on duty on printed materials to the country.

p) It has been submitted that the import of digital plate which were reported in significant volume from Europe, now been reported from china and Japan. Thus, this is clear case of realignment of imports between different plants of same foreign produces. It has further been submitted that dumping claims are highly exaggerated. On the issue of injury, it has been submitted that the issue of injury to domestic

industry on account of safeguard duty on aluminum plate should be considered. It has further been submitted that wide adverse implications of anti dumping duty on consumers for benefit of a monopoly producers whose performance is admittedly improving in last three year should be analyzed.

q) It has been submitted by some of the users of subject goods from Newspaper industries that material injury or threat thereof cannot be based on statement, therefore, all the factors of injury should be analysed by the authority. It has further been represented that the levy of anti dumping duty on the digital offset printing plates will adversely affect finances of end user buyers like them and it could cause serious disturbance to the users of plates in specific Newspaper industry which is already affected by fluctuation in FOREX and Pricing of News Print. Therefore, it is suggested that apart from other factors, the Normal Value should be analyzed by examining both (a) Cost of production in the country of origin with reasonable addition for administrative, selling and general costs and for profits. ; and (b) Cost of production in India with reasonable addition for administrative, selling and general costs and for profits vis-à-vis domestic manufacturers apart from “the material injury” aspect. So that, Indian Domestic Manufacturer should not monopolize the market and sell their product at higher prices by eliminating any competition which would otherwise benefit the domestic print industry like us.

109. The following are the submissions made by importers, exporters and users subsequent to the preliminary findings on the issue of injury and casual link.

a. **Injury suffered by Technova due to imposition of safeguard duty on its raw material**

(i) The raw material involved in production of the product under consideration was attracting safeguard duty during the investigation period. Technova itself admitted before Director General, Safeguards that safeguard duty has caused injury to the company. In the context of the Rules, it is an admitted position and the petitioner has itself claimed that it has suffered injury due to safeguard duty earlier imposed by the Govt. of India. Thus, injury caused to the domestic industry by such safeguard duty cannot be attributed to the alleged dumped imports and such injury must be segregated.

(ii) In this context, it would be relevant to refer to the decision of the CESTAT in the matter of Andhra Petrochemicals Ltd. Versus Designated Authority, reported at 2006 (201) E.L.T. 481 (Tri. - Del.), wherein the Hon’ble Tribunal tested the relevance and usefulness of the public statements made by the domestic industry.

(iii) In US Hot-Rolled Steel, the Appellate Body laid down the requirements that Article 3.5 imposes on the investigating authorities when performing a causation analysis.

(iv) The Appellate Body on EC — Tube or Pipe Fittings disagreed with the Panel's understanding of the term “known” in Article 3.5. The Panel had considered that the alleged causal factor was “known” to the European Commission in the context of its dumping and injury analyses, but that the factor was nevertheless not “known” in the context of its causality analysis. The Appellate Body disagreed with

this approach and considered that “a factor is either "known" to the investigating authority, or it is not "known"; it cannot be "known" in one stage of the investigation and unknown in a subsequent stage.”

(v) In Guatemala — Cement II, the Panel agreed with Mexico's claim that Guatemala's authority failed to take into account certain undumped imports, and accordingly, failed to assess other factors which were injuring the domestic industry at the same time, in violation of Article 3.5.

b. **Cumulative Assessment of injury to the domestic industry**

(vi) In a situation where more than one country is involved, the rules permit cumulative assessment of injury to the domestic industry. However, such cumulative assessment of injury to the domestic industry cannot be automatic. The Designated Authority can resort to cumulative assessment only if conditions prescribed under the rules are met.

(vii) The mere fact that dumping margin in respect of imports from Japan is also more than de-minimus, the same is grossly insufficient to decide that cumulative assessment of the effects of dumped imports is warranted.

(viii) Since the authority has not even examined whether cumulative assessment of the effects of imports is appropriate in light of the conditions of competition between the imported products, the preliminary findings, in any case, contains insufficient basis and are vitiated.

(ix) Fuji India is offering material originating in Japan and China at significantly different prices and the consumers are willing to pay different prices for the products originating in Japan and China. This clearly implies that there are some differences in the two products and cumulative assessment is inappropriate.

c. **Increase in inventories was an operational requirement and not a consequent impact of dumping**

(x) Technova sales have increased more than the increase in demand. Obviously to cater to the rising demand, Technova has to increase its inventory levels. The company has to increase its inventory levels in order to keep sufficient stock of different types/sizes of plates in stock. Technova has no option but to increase its inventory levels in order to ensure availability of the material with the company to all the consumers. The rise in inventories was therefore a need to sell the product and not an impact of dumping. The number of printers has increased. Each printer has its own requirement and accordingly different parties would have to cater to different requirement of printers.

d. **Other points relating to injury**

(xi) It is evident that the losses of the domestic industry have been declining. The mere fact that company continues to be in losses is not sufficient to hold injury.

(xii) There is no decline in market share of domestic industry. In fact, domestic industry has captured market share of third countries and the market share of the subject countries almost remained at the same levels.

(xiii) Price undercutting has not been determined at same level. Domestic industry have compared landed price of imports with the selling price of the domestic industry. The comparison is not at same level of trade. While selling price of domestic industry includes all sales and post sales expenses, landed price of imports does not include these expenses incurred by resellers of the imported product. Therefore, while comparing landed price of imports, all post sales expenses, SGA and technical service support expenses incurred by the resellers in India need to be added to the landed price. Alternatively, these costs incurred by the domestic industry may be excluded.

(xiv) The domestic industry has shown positive growth in all the volume and value/price parameters. Capacity, production, domestic sales, export sales, capacity utilization, profits, cash profit, ROI also show improvements.

e. Capital employed, depreciation increased without increase in capacity

(xv) Technova has added capacity only in 2008-09. However, the company has claimed continued increase in capital employed and depreciation. The increase shown in capital employed is because of increase claimed in assets and not working capital as the company has claimed significant increase in depreciation cost also.

f. Capacity is more than demand

(xvi) The capacity held by Technova is far higher than the Indian demand. Since the company is having production capacity far in excess of the domestic demand, it cannot expect reasonable plant utilization and has to suffer idling of production capacities. This injury is being wrongly attributed to dumping of the product.

(xvii) Growth of the demand in the injury period has been considered as the basis for the projected demand. Further, considering that the Designated Authority has recommended anti dumping duty, it has been considered that the volume of imports shall get restricted to 2009-10 levels. It would be seen that Technova would have to operate their plant @ 120% in order to feed the demand of the product under consideration in the market in 2013-14. Setting up of production facilities in this product is not an overnight affair.

(xviii) It has been claimed that the domestic industry has claimed excessive confidentiality. Further, it has been submitted that balance sheet for the domestic industry has not been provided to them.

110. Some other submissions made by importers, users, exporters and associations are as follows:

- It has been submitted by interested parties that costs of all the inputs have sky rocketed in recent months due to depreciation of rupees.

- It has been submitted that provisional antidumping duty of 27% is confiscatory in nature.
- It is submitted that with the imposition of provisional duty, readers are taxed and beneficiary is only one company.
- Interested parties submitted that more manufacturers of digital printing plates are required but such tactics by one of them dissuades other to put up their plants in India.
- It has also been submitted that the Government is protecting the interest of large manufacturers at the cost of hundreds of publishers who were using cheaper plates.
- It has been argued that there is a disagreement that exporters of cheaper plates were being financed by the governments in their respective countries.
- It is also submitted that to protect the interest of manufacturer then it should waive their excise duty on its products if used by registered newspaper or allow duty for free imports on actual user basis to registered newspaper as Newspaper already get certain exemption from taxes to fulfil the stipulation under the preamble Article 19 and Article 51 A of Indian constitution.
- It is been submitted that NCV of verification reports stating difference and similarities between CtCP and digital plates may be disclosed to interested parties in public file
- It is also been submitted that company's performance is deteriorating in analogue plates not digital plates
- It is submitted that the plates and chemicals both are sold to same parties, therefore chemical business should not be seen as standalone business
- Interested parties have submitted that plant wise expenditure shall be considered and separate NIP for each of the plants may be determined on the basis of actual information of three plants.
- As per CESTAT decision in bridgestone tyre case, designated authority shall consider the past level of profits and returns earned by domestic industry while granting reasonable return.
- Notional interest cost on funds is provided by promoters, since the funds have come from promoters and related parties, the interest cost is notional and should not be permitted.
- When Technova publicly claims that their pricing formula is linked to two major factors-Prices of Aluminium LME and exchange rate, how the imports are causing them injury when their prices are not even linked to imports.
- The difference in C.I.F price of thermal and violet is Rs. 5-10 per sqm, whereas difference in the NIP is US\$ 0.76 US (as Rs. 65). Raw material difference between both is Rs. 5 to 10 and when there is no significant difference in the processing cost. The difference cannot be understood. When cost between analogue and digital plate is allocated on the basis of production, here some other methodology is followed. There is inconsistency in the methodology followed.
- Benchmarking price is at the level of landed price of imports at the port, significant selling & distribution cost incurred by importers in selling the product is not included in the price. Technova will have opportunity to fetch much higher price than NIP.
- Public interest demands that overall profitability with regard to chemicals and plates must be examined in considering whether the company requires to be protected.

- NCV of supplementary information submitted by technova may be disclosed to interested parties.
- There is no causal link, besides other reason, restriction of exports on Technova outside india is also cause of injury .

Submissions made by importers, users, exporters and associations in comments to disclosure statement.

- Post disclosure various interested parties have reiterated their earlier submissions made during the course of the investigations. In particular, they have again drawn the attention of the Authority towards the fact that cumulation of dumped imports should not be carried out by the Authority for injury analysis. Further, it has been submitted by some user associations that the Authority has in the past terminated the investigations on findings that NIP of the domestic industry is lower than Net sales realization. They have stated that they are not aware of any past cases where the Authority has recorded positive findings of injury after findings that NIP is less than NSR. They have reiterated their earlier submissions made with regard to the fact that treatment of the impact of safeguard duty is inappropriate. In this connection, they have drawn the attention of the Authority towards submissions made by Technova during safeguard proceedings.
- Post disclosure, these interested parties have also submitted that the Designated Authority has not considered the aspect of public interest. They have further added that imposition of anti dumping duties on present sources shall severely limit the supply sources for the printers.
- Post disclosure, they have resubmitted that there is an absence of injury to domestic industry and causal link is not present in this case. Further, it has been submitted that investigation should be terminated with regard to Japan as injury margin is negative in respect of Japan.
- It has been represented that there is significant departure from preliminary finding and in the disclosure statement and such a drastic change in such key parameters could not have been permitted without providing opportunities to the interested parties.
- It has been represented that Digital plates cannot be produced on PS plates line. Further, it has been represented that by combining capacities for PS plates and digital plates, technova has apportioned expenses between PS and digital plate . It has been also been represented that the Authority should have examined the project report. On the issue of allocation, it has been represented that M/s Technova has claimed significant increase in profits in chemicals and significant decline in profits in sales in the POI. Further, it has been submitted that the performance of the company as shown in annual report has shown significant improvement whereas company has reported losses in digital printing plates by doing some cost accounting juggleries. Profit shown in annual report cannot be earned from chemical business as it is a miniscule activity.

- The interested parties have requested the Authority to share the basis of calculation of the NIP for the 3 types of plates separately when costs and capacities for the 3 (CTcP, Thermal and Violet) have been merged into one in the disclosure for all calculation purposes. Various interested parties have also asked as to how the NIP for these have been calculated separately.
- On the issue of capacity, it has been represented that installed capacity for PS plates and Digital plates as per audited statement and the capacity stated in the disclosure statement shall be compared. Further, some interested parties have requested to disclose net sales realization Vs NIP of Technova for PS plates as well as digital plates. It has also been submitted that year wise sales variable cost, contribution, fixed cost(wages separately), Gross Margin, ROI, Capital employed, interest and depreciation, cash and net profit break up between analogue, digital and Chemicals business as per disclosure statement and Audited statement may be reconciled and disclosed . Further, it has been submitted that the basis of apportionment of the expenses in the 3 divisions shall be disclosed. It has also been submitted that why Profit as an index figure has reduced from 119.83 in the year 2009-10 to 37.28 in the year 2010-11 and Profit per unit indexed has reduced from an index figure of 35.57 in 2009-10 to 7.69 in the year 2010-11.
- It has been submitted that no tangible reasons have been given by the domestic industry to why reference price based duty is in appropriate in the subject case.
- It has been submitted that Indian rupee has significantly devalued and therefore anti dumping duty in US\$ shall mean about 20% over protection to the domestic industry. They have requested the Authority to recommend anti dumping duty in INR should the Authority still find it necessary to impose anti dumping duty despite their submissions that there is no justification to it.

Submissions made by Domestic Industry

111. The domestic industry has argued that:

- (i) Import volumes from the subject countries reached an alarming level from a very low level during 2007-08.
- (ii) Relative to domestic production, imports from the subject countries have reached a level of 36% and relative to consumption in India, imports from subject countries constituted 27%.
- (iii) The price undercutting by Chinese exporters increased from 16% in the past two years to 21% in 2010-11.
- (iv) CIF Price and Landed Value showed a sudden and significant decline during the period of investigation.
- (v) The domestic industry has enough capacity to meet the entire Indian demand and still it will be left with sufficient capacity to meet increase in future demands. However, they are not able to utilize their capacity due to dumped imports.
- (vi) The price for the Indian market is substantially lower compared to their prices in other country markets.
- (vii) Inventory of the domestic industry has increased substantially during the period of investigation, due to constant pressure of the dumped imports from the subject countries.
- (viii) Keeping in mind the increased demand and production, the overall profitability of the subject goods for the domestic industry has reduced drastically.

(ix) The Petitioner has invested in establishing one of the best technologically advanced production plant to service the needs of the Indian printing industry by borrowing substantial loans from banks and financial institutions. Dumping from the subject countries has made it extremely difficult to break even and to service the debt.

(x) The performance of the domestic industry for product under consideration has deteriorated over the injury period.

(xi) ROI (NFA Basis) of the domestic industry has significantly deteriorated over the injury period. This clearly shows the price depression and suppression effect of dumped imports from China PR that has resulted in significant losses to the domestic industry.

(xii) The ROCE is too low compared to the standard ROCE allowed by the DGAD.

(xiii) The domestic industry has recorded a positive growth in volume terms and a significantly negative growth in monetary terms during the past three years

(xiv) The imports coming into India from the subject countries are far above the de minimis level of dumping margin.

(xv) The domestic industry has requested the Authority to impose anti dumping duty on fixed duty basis. Further, they have also requested the Authority to fix the anti dumping duty separately for thermal, violet and CtCP or UV CTP plates separately. Further, it has been submitted with some illustrations from past cases that for the grades not exported to India during the POI, all others rate should be applied.

(xvi) With regard to imports made by Fuji, China they have represented that M/s Fuji China have exported large volumes of PS plates which are in fact digital plates and not the PS plates keeping in view the facts that these are priced much higher than analogue plates. They have requested the Authority to take into account these imports for determining dumping and injury margin for the producer and exporter. Further, it has been represented that as subsidiaries of M/s Fuji China and Fuji Japan have not submitted their response, they should be declared non cooperative.

(xvii) With regard to response from M/s Kodak, China PR, they have represented that since its subsidiaries in China PR and Singapore have not submitted their response, therefore, they should be termed non cooperative. Further, they have submitted that as per eximnet data, their total landed price is 245.18/Sq meter for the POI and the same should be accepted for determination of injury margin.

(xviii) It has been submitted that the domestic industry is also suffering from threat of material injury also. In its claim, the domestic industry has claimed that there is excess capacity available with the producers and exporters of subject goods in subject countries and also the there is rapid rise in the volume of imports of subject goods from subject countries. They have also cited the lost sales evidence in their claim for threat of material injury.

112. Following are the submissions made by Domestic Industry subsequent to issuance of Preliminary Finding.

- i. The assumption that cost of production is unreasonable because of the inclusion of safeguard duty in cost of production is not correct as the quantity of raw material imported from China PR was insignificant.
- ii. There is no legal or factual basis to treat the increases in the cost of production as 'other factors' of injury. If such logic is applied, no Domestic Industry can seek the protection of antidumping duty in case their raw material costs or any other cost goes up.

- iii. If an industry is having very high costs, one cannot say that they are suffering injury because of their high cost of production. The actual costs shall be taken into account for the purposes of calculating the Non-Injurious Price.
- iv. If one has to come to a conclusion that the Domestic Industry is not able to meet the competition from dumped imports because their costs are high and not because they are forced to meet the imported goods at the dumped prices, it will turn the antidumping law on its head.
- v. The 'other factors' referred to in Paragraph 3(v) of Annexure II of the Rules cannot be interpreted to include the 'cost of production' itself.
- vi. The imports from China were too insignificant to cause any appreciable increase in the cost of production of the Domestic Industry. On the imports of 56.760 MT, Domestic Industry paid a total safeguard duty of Rs. *** lakhs during POI. This would come to USD ***per sqm, i.e. not even one hundredth of a cent.
- vii. Anti-dumping Rules do not refer to conditions of competition between the imported products as contained in Article 3.3. Hence, the Hon'ble Designated Authority has always analyzed the cumulative assessment based on the provisions contained in Anti-dumping Rules.
- viii. Assuming that the Hon'ble Designated Authority were to consider the conditions of competition between imported products per se in the factual matrix of the case at hand, the arguments of the Interested Parties are not clear.
- ix. There is no submission that Fuji plates and Kodak plates and Lucky Group plates are different from each other and they do not compete in the same market.
- x. Sales channels used by Fuji China and Fuji Japan are similar. Fuji China and Fuji Japan export their products to Fuji India who resells them in the Indian market.
- xi. In case of EC - Malleable Cast Iron or pipe fittings from Brazil - [WT/DS219/R], The WTO Panel has analyzed the issue regarding conditions of cumulation. Even though there were huge price differences, the Panel held that conditions of competition permitted cumulation. In the present case, the price differences are at very low levels in the range of 15% to 20%. Therefore, one cannot say that conditions of competition do not permit cumulation.
- xii. Interested parties have stated various reasons like operational requirement, guarding against shutdown etc for increase in inventory of the Domestic Industry without any iota of evidence to support the bald statements. It is reiterated that dumping from subject countries was a major reason for increase in inventory level as there is increased dumping by the exporters; Domestic Industry has no other option but to keep the production in stock.
- xiii. The Domestic Industry's ROCE reduced drastically and substantial working capital was blocked on account of such huge increase in inventory level.
- xiv. The new plant started off mainly with the production of analog plates. However, over a period of time, it gradually moved towards higher production of digital plates. Since the capital employed has been allocated on the basis of the production quantity of the products, in the initial year(s) major capital employed has been allocated to analog plates and gradually with the increase in production of digital plates, major portion of capital employed has been allocated to Digital Plates.
- xv. In the present investigation although sales volume, production volume, capacity utilization, wages & employment shows positive trend but growth in these factors have failed to improve the market share, profitability, inventory levels and return on capital employed of the Domestic Industry. Thus, Hon'ble Designated Authority has rightly analyzed and assessed the injury suffered by Domestic Industry caused by dumped imports.

Capacity is more than demand

- xvi. The Authority would appreciate that the domestic demand has actually increased close to 4 times during the corresponding period from 4.30 Million square meter to 15.47 Million square meter. This would sufficiently explain the rationale behind the addition of capacity by Domestic Industry. However, despite sufficient capacity to serve the Indian market, unfair trade practices from the subject countries have forced the Domestic Industry to sell the subject goods at un-remunerative prices. This clearly shows the injury suffered by the Domestic Industry.

Reference price based duty is unsuitable:

- xvii. Reference price based antidumping duty will be easily circumvented by simple over invoicing of exports. Such practice has already been observed in the case of PS Plates where the authority recommended a reference price based duty.
- xviii. Aluminum prices are extremely volatile and considerable fluctuation in price has led to a substantial rise in prices in the injury period. This will have a direct impact on the efficacy of the reference price based duties.
- xix. Present duty form should be changed to a fixed duty form to effectively counter and curtail dumping.
- xx. Following the imposition of anti dumping duty on a reference price basis after the preliminary findings, the domestic industry has reiterated its demand for imposition of anti dumping duty on fixed duty basis citing the fact that post provisional imposition of anti dumping duties, the subject goods price have increased to a level of reference price. Further, they have also cited the fact that exporters of subject goods have started circumventing the dumping duties by changing the nomenclature of subject goods and they have requested imposition of fixed duties in the subject case.

Submissions made by domestic industry in comments to disclosure statement.

- Domestic industry has submitted that authority had made adjustments in their claims relating to investment, working capital borrowings, basis of allocation of cost.
- They have submitted that investment in the new plant for the purpose of injury analysis and NIP should not be restricted to the original level.
- Further, it has been submitted by the domestic industry that details of basis of allocation should be disclosed to them
- They have also requested the authority to reexamine working capital requirements which has been included in the capital employed.

Examination by the Authority on the issues raised by various interested parties

113. The Authority has taken note of submissions made by the interested parties. Annexure II of AD Rules provides for objective examination of both (a) the volume of dumped imports and the effect of the dumped imports on prices in domestic market for the like articles; and (b) the consequent impact on domestic producers of such products. While examining the volume effect of the dumped imports, the

Authority is required to examine whether there has been a significant increase in dumped imports either in absolute term or relative to production or consumption in India. With regard to price effect of dumped imports, the Authority is required to examine whether there has been significant price undercutting by the dumped imports as compared to price of the like product in India, or whether the effect of such imports is otherwise to depress the prices to a significant degree, or prevent price increase which would have otherwise occurred to a significant degree.

114. With regard to the arguments made by various interested parties on the issue of Product under Consideration in general and inclusion of CtCP plate in particular, it is noted that the same has been analyzed under the para relating to product under consideration and like Articles. It has been argued that the domestic industry in this case is a monopoly player and imposition of anti dumping duty would jeopardize the interest of small users. It has also been argued that the anti dumping duty will protect the interest of large manufacturers at the cost of hundreds of publishers who were using cheaper plates. The matter has been examined and it is stated that the Antidumping investigations are conducted under Anti dumping rules and antidumping duties are recommended and imposed to redress unfair trade practices on account of dumped imports of subject goods from subject countries which has injured the domestic industry. With regard to some of the arguments of importers, users and associations that imposition of any Anti-dumping duty on digital plates will be unjust as printed materials are allowed duty free imports in this country, it is noted that this argument is not germane to the present investigation.
115. With regard to the arguments made by domestic industry that some of the PS plates imported by M/s. Fuji during the POI from China PR are in fact digital plates given the fact that prices of those import transactions bearing PS plates are similar to import prices for digital plates during the same period from their parent company, it is stated that matter was examined after the preliminary findings and after detailed investigations including verifications of the records of the company, volume and value of digital plates exported by the company to India have been determined by the Authority. With regard to arguments made by the domestic industry that the landed value of subject goods exported from China PR by M/s. Kodak as per their information comes to Rs. 245 per square meter, it is stated that the matter was duly examined by the Authority and export price has been determined after detailed examination including onsite verification conducted by the Authority.
116. With regard to arguments made by interested parties that injury to domestic industry is on account of safeguard duty on Aluminium and other arguments made by importers, and users for objective examination of all injury parameters concerning performance of domestic industry during the injury period, it is stated that the injury parameters mentioned in the findings have been determined after verifying and examining the records of the domestic industry. The authority observes that a transitional product specific safeguard duty was in force on the imports of Aluminium coils from China PR from 23.03.2009 to 22.03.2011. The safeguard duty was 14% and 12% during the first and second years respectively. The levy of safeguard duty was to remedy the market disruption caused by increased imports of Aluminium coils from China PR. The authority conducted a detailed examination of the impact of the said levy of safeguard duty on the domestic industry producing the subject goods. The quantity of litho-grade aluminium coils imported by the domestic industry was examined. It was found

that the domestic industry had imported insignificant quantities of litho-grade aluminium coils from China PR and the quantum of safeguard duty paid on such imports was negligible. The Authority found that the impact of safeguard duty on the raw material costs incurred by the domestic industry was negligible. Even if the safeguard duty resulted into an increase in the cost of raw materials, injury to the domestic industry has to be determined based on the costs 'as incurred' by the domestic industry and not based on 'what the costs would have been' minus the safeguard duty. Further, in this case, the costs incurred by the domestic industry had negligible impact by the levy of safeguard duty as stated above. The Authority notes that the position of the domestic industry has to be considered not in the context of ideal conditions but in the specific circumstances of the domestic industry. Some of the interested parties have argued that the levy of safeguard duty shall be treated as a 'known factor other than dumping' that caused injury to the domestic industry at the same time. Though the levy of safeguard duty could have increased the costs of the domestic industry, it did not actually increase the costs as the domestic industry had imported only negligible quantities of raw materials from China PR. In view of the above, the Authority holds that the levy of safeguard duty did not in a major way adversely affect the costs of, or the non-injurious price determined for, the domestic industry.

117. With regard to the argument that the domestic industry has invested huge amounts in creating capacity in excess of the Indian demand, the Authority examined the trend of the domestic demand and the capacity additions. The Authority finds that the demand increased from 4.36 Million sqm to 15.47 million sqm during the injury investigation period. The annual increase in demand over the previous year was 47%, 63% and 49% during 2008-09, 2009-10 and 2010-11. The average annual increase in demand during the injury investigation period was 53%. The capacity was increased from 6 Million sqm to 18 Million sqm in 2008-09 for both PUC and non PUC. It is noted that the demand accounted for 86% of the Indian capacity. Considering the rate of growth of demand in India, the capacity does not appear to be excessive. It is also noted that capacity cannot be added on an annual basis.
118. Regarding submission of interested parties regarding high input cost due to depreciation of rupees, it is noted that depreciation of rupees is a macro economic issue and is not relevant to antidumping investigation.
119. With regard to excessive confidentiality claimed by the domestic industry, it is noted that all the volume parameters in absolute terms have been disclosed by the domestic industry in the petition and confidentiality had been claimed for price parameters and after examination, the confidentiality was thereafter allowed by the Authority on the price parameters. However even with regard to all the price parameters, the figures in the indexed form have been disclosed. Further, with regard to NCV copies of balance sheet of the domestic industry, it is noted that balance sheet of domestic industry for the year 2009-10 was made available to all interested parties after the initiation of subject investigations. Further, a copy of the same for year 2010-11 was also kept in the public file and copy was made available to interested parties those who asked for the same to be sent to them.
120. Regarding duty incidence of 27% in provisional finding. It is submitted that Provisional anti dumping duty equal to the difference of landed value of imports and Benchmark price ranging from 5.20 US\$ to 6.6 US\$ had been imposed by

central government. Further, for the purpose of final findings, the Authority has carried out detailed examination of all the facts pertinent to these investigations and after examination, the dumping margins and injury margins have been determined and mentioned in the appropriate headings. As per the preliminary findings, the digital plates imported from subject countries whose landed price is above benchmark price will not attract antidumping duty in provisional measure.

121. With regard to protecting the interest of large manufacturers at the cost of hundreds of publishers who were using cheaper plates, the issue of monopoly of the domestic industry and the issue of large manufacturers producing the subject goods, it is noted that the Antidumping investigations are conducted under Anti dumping rules and antidumping duties are recommended and imposed to redress the unfair trade practices on account of dumped imports of subject goods from subject countries which has injured the domestic industry. Further, the domestic industry if it enjoys the monopoly status in the domestic market, is not disentitled to seek protection from unfair trade practices which has resulted into dumping of subject goods and injury to the domestic industry, under the Anti dumping rules. The DGAD is conducting antidumping investigations of the import of digital plates from China and Japan and provisional antidumping duties have been imposed by central government following recommendations made by DGAD after provisional examination of responses received from various interested parties. The Authority has subsequently conducted detailed and on site verification of the data submitted by various interested parties and the information gathered after such verifications are taken into account in the present final findings.
122. As regards issue of waiver of excise duty, interested parties may submit their memorandum to the concerned ministry.
123. With respect to arguments made by domestic industry to determine and impose anti dumping duties on fixed basis on one hand and arguments made by users, importers and exporters to impose anti duties, if required, on reference basis, the Authority notes that the matter was examined taking into account all the facts and submissions made by various interested parties pertaining to this case and taking into account the views of all interested parties, for the purpose of provisional findings, reference price duties for three subtypes within product under consideration was recommended by the Designated Authority and imposed by the central government. The Authority has taken into account submissions of various interested parties for the purpose of determining appropriate duty structure for the purpose of the present final findings.
124. On the issue of making available NCV copy of the verification report, it is noted that verification report is a confidential document which contains the confidential information submitted by the interested parties on confidential basis. Further, as per the practice, the copy is only given to exporter concerned and no NCV copy is prepared.
125. On the issue of cost allocations between chemicals business and plates business and also between digital and analogue plates, it is noted that injury on digital plate has been determined on the basis of cost allocation on appropriate basis after verification of relevant records of the domestic industry. Thus, since the PUC is digital plate and not analogue plates, the performance of the domestic industry in respect of digital plate has been considered in the subject investigation.

Further, the chemical division is a separate division in Technova and records of plates and chemical divisions are maintained separately.

126. On the issue of rate of return taken into account for the purpose of determination of NIP, it is noted that rate of return has been taken as per the practice followed by DGAD in line practice followed by the Authority in other investigations also.
127. Regarding notional interest paid to Directors, it is noted that the interest cost as per annual accounts of the company has been allowed as per consistent practice.
128. On the issue of linking of selling price with LME price and exchange rate, the Authority notes that based on copies of annual contracts for supply of subject goods to some of the clients, the selling price of the domestic industry has linkage with the LME prices as well as the exchange rates. However, the Authority further notes that the fluctuation in LME prices and the exchange rates may not be the only factors affecting the selling prices of the domestic industry. Furthermore, such practice is not in vogue in respect of the entire sale affected by the domestic industry in the domestic market.
129. On the issue of difference in the NIP of violet and thermal, it is noted that these products are manufactured in different plants having different costs.. Since violet is produced in new plant which is modern and carries huge investment, return and depreciation on the items produced in the new plant is higher. Further, the landed price of various types of digital plates has no direct relationship with the NIP of these plates produced by the domestic industry.
130. On the issue of Benchmarking price at the level of port, it is noted that non injurious price as well as net selling price is always determined at the ex factory level while the landed value of subject goods from subject countries are determined at the port level. This is as per consistent practice of DGAD. As far as Selling and distributions costs are concerned, the same is excluded from both the importers, resellers as well as from domestic industry.
131. On the issue of considering chemical division along with digital plate for working out profitability for the product under consideration, it is noted that anti dumping investigation is against the imports of digital plate which is the PUC in this investigations and cannot be clubbed with any other product. As AD investigation is limited to PUC. Profitability of upstream, downstream and related products is not considered in ADD investigation.
132. Regarding NCV of supplementary information submitted by Technova, it is noted that supplementary information mainly consist of Project Report, which is a confidential document and cannot be summarised.
133. Regarding restriction of export on Technova, it is noted that technova is exporting digital plates, the restriction to export is for specific country as per contract with Agfa. However, during the investigation, the injury to the domestic industry has been determined with regard to domestic operations of Technova.
134. With regard to claim of the domestic industry for threat of material injury, it is noted that there is a significant increase in the volume of imports of subject goods from subject countries during the injury period. However, the same is in line with growth of domestic sales of domestic industry during the same period. Further, the

Authority has also noted the lost sales claim made by the domestic industry. On the issue of excess capacity at the end of producers, it is noted that there is indeed a surplus capacity available with the producers of subject goods from subject countries.

Examination by the Authority on the issues raised by various interested parties after the disclosure statement

135. *The issues raised by various interested parties have been examined by the Authority under appropriate headings in this final finding.*
136. On the specific issue of cumulating of dumped imports from subject countries, it is noted that the conditions of cumulation as required to be fulfilled in terms of (iii) as above is satisfied in this case. In this regard, it is noted that imports from China PR and Japan were significantly higher than the negligible level of 3% and dumping margin is more than de minimus as prescribed under Paragraph (iii) of Annexure II to the Rules. Further, it is noted that subject goods imported from Japan as well as China PR are used interchangeably with the goods produced and sold by the domestic industry. Accordingly, goods from all the three countries (i.e., India, China PR and Japan) compete with each other in the Indian market, primarily based on price. In view of the above and as examined in detail in the appropriate headings, it is considered appropriate to, cumulatively assess the effect of imports of the subject goods from China PR and Japan on the domestically produced like article.
137. On the issue of specific vs benchmark form of anti dumping duty and whether anti dumping duties should be imposed in INR or US\$, the Authority has recommended benchmark form of anti dumping duty in US\$ after considering the factual matrix of the case and arguments made by various interested parties.
138. It has been submitted by various interested parties that there is significant departure from preliminary finding in the disclosure statement and they have contended that such a drastic change in such key parameters could not have been permitted without providing opportunities to the interested parties. The matter has been examined and it is noted that the change in the figures of cost of sales, profit and Loss per unit, Profit before Tax, Cash Profit, Capital Employed, Return on investment of domestic industry is due to allowing the investment made by the domestic industry in the new project only to the extent envisaged in the original project report based on detailed verification and examination of information submitted by the domestic industry subsequent to the preliminary findings. Further, it is stated that these figures have been revised by Authority and there is no revision in the figure by the domestic industry. In addition, it has already been mentioned in the disclosure statement that the capital cost of the new plant has been restricted to the level of investment contemplated in the original project report, for the purpose of injury analysis and determination of NIP. Accordingly depreciation and interest cost is also restricted to the original project cost affecting cost of sales, profit, cash profits, ROCE etc.
139. Regarding change in NSR, this matter has been examined by the Authority in detail based on post-disclosure submissions of the interested parties and has been clarified in these findings in the relevant paras regarding determination of non-injurious price for the domestic industry.

140. With regard to change in capacity and capacity utilisation, it is noted from the project report that the capacity of new plant was both for PUC and non PUC.
141. Regarding argument that digital plates cannot be produced on PS plates line it is noted that although it may not be possible to produce digital plate in the plant of analogue plate, but analogue plates can be produced in the digital plates plant. Technova has dedicated plants for analogue but there is no dedicated capacity for digital, the latest two plants of 18 million sqms installed by Technova is for the production of both digital and analogue plates. Further, it has been noted from the records that analogue plates were indeed produced in the new plant during the injury period.
142. Regarding submission that by combining capacities for PS plates and digital plates, technova has apportioned expenses between PS and digital plate , it has been already mentioned in the disclosure that the cost of plants producing both analogue and digital was apportioned between digital plates and analogue, both for preliminary findings as well as in disclosure statement and also in this final findings.
143. With regard to determination of NIP, it is noted that NIP has been computed on the basis of the cost of plants manufacturing both digital and analogue plates. NIP has been computed on the basis of direct cost as well as cost allocated/apportioned on appropriate basis
144. It has been submitted by various interested parties representing some user associations that Authority should have examined the project report, it is noted that for the purpose of NIP and injury determination authority has also examined the project Report and other relevant documents. However, the same has not been put in the public file as it has been claimed and considered confidential.
145. Regarding argument that the Technova has claimed significant increase in profits in chemicals and significant decline in profits in sales in the POI, it is noted that profit margin on sales realisation in chemical division has been broadly similar throughout the injury period.
146. Regarding submission that the performance of the company as shown in annual report has shown significant improvement whereas company has reported losses in digital printing plates by doing some cost accounting juggleries, it is noted that it is the actual performance of the domestic industry in relation to subject goods produced by the company that has been taken into account by the Authority in examining injury parameters. Further, the Authority has examined the submissions made by the domestic industry and in the disclosure statement, it has been noted that there is no loss in digital plate after project cost has been restricted to the original project cost.
147. It has also been mentioned that profit shown in annual report cannot be earned from chemical business as it is a miniscule activity. It is noted that other than chemical business, Technova is earning profits in digital Print Media division and trading activity. Approximately 38% of revenue was earned from Chemical, digital Print Media division and trading activity during the POI.
148. In the comments to disclosure statement, some interested parties representing importers and users have requested the Authority to share the basis of calculation of the NIP for the 3 types of plates separately when costs and capacities for the 3 (CTcP, Thermal and Violet) have been merged into one in the disclosure for all

calculation purposes. various interested parties have also asked as to how the NIP for these have been calculated separately. The submissions have been examined by the Authority and it is noted that NIP for each type of plate produced has been determined as per the provisions of Annexure III of the anti dumping rules and for the purpose of price underselling for subject goods, weighted average NIP has been considered. For the purpose of determining injury margin, NIP of each type of plate is compared with landed value of respective plate of the co-operating exporter. This is in line with determination of dumping margin by the Authority as mentioned in the appropriate headings.

149. Regarding issue of similar installed capacity for PS plates and Digital plates as per audited statement and the capacity stated in the disclosure statement, it is noted that the combined installed capacity referred to in the disclosure statement and annual report is the same.
150. Regarding the query of net sales realization Vs NIP of Technova for PS plates as well as digital plates, it is noted that the net sales realization of digital plates and its NIP are confidential and cannot be disclosed.
151. Regarding reconciliation of year wise sales variable cost, contribution, fixed cost(wages separately), Gross Margin, ROI, Capital employed, interest and depreciation, cash and net profit break up between analogue, digital and Chemicals business as per disclosure statement and Audited statement, it is noted that these figures have been considered only after reconciliation with the audited accounts of the company. Further, the absolute figures are confidential and cannot be disclosed. However, the index figures have already been disclosed in the disclosure statement.
152. Regarding basis of apportionment of the expenses in the 3 divisions i.e it is noted that most of the expenditure of all four divisions i.e plates, digital plate media, chemicals and trading are direct and recorded separately in the books of accounts and common expenses of the company are allocated on the basis of accepted principles of determination of NIP.
153. Some of the interested parties have raised a query that why Profit as an index figure has reduced from 119.83 in the year 2009-10 to 37.28 in the year 2010-11 and Profit per unit indexed has reduced from an index figure of 35.57 in 2009-10 to 7.69 in the year 2010.-11. In this connection, it is noted that these interested parties had sought a meeting/hearing with the Designated Authority and during the meeting these interested parties were explained that the reason for decline in profit in 2010-11 as compared to 2009-10 is because of steep reduction of selling price per unit (index from 88 to 84) and as compared to the reduction in cost to make and sell per unit (from 95 to 93) and it was also explained that each figures are indexed corresponding to its base year figure and therefore no conclusion can be drawn from two different indexes based on two different bases.
154. Regarding the issue of restriction of investment to its original level, it is noted that M/s Technova had provided certain clarifications relating to additional investment and after examining the clarifications authority is still of the view that the investment in the new plant needs to be restricted to the level of investment contemplated in the original project report for the purpose of injury analysis and determination of NIP. Regarding the issue of revision in Capital employed due to treatment of working capital loans as current liabilities, the Authority has revisited the issue and made suitable modifications in the capital employed as well as NIP.

155. Regarding changes in the basis of allocation made by the Authority as claimed by the domestic industry, it is noted that the Authority has adopted the appropriate basis in terms of the provisions of NIP principles outlined in Annexure III to AD Rules and the basis adopted has also been disclosed to the domestic industry.

156. On the issue of comments of some of the interested parties representing importers and user associations for extending the time to complete the investigation for detailed examination of the case, it is submitted that the subject investigation is already under extended period of time (of three months). Further, the submissions made by various interested parties have been examined in this final findings. In fact, it is noted that the Designated Authority had already extended the time for the interested parties to submit response to the disclosure statement by one day.

Examination of Injury : Volume of dumped imports, price effect on account of dumped imports and its impact on the domestic industry.

157. With regards to the submissions made by various interested parties on injury to domestic industry, it is stated that the same has been determined in terms of mandatory injury parameters as per the rules and have been mentioned in appropriate paragraphs. As regards the impact of dumped imports on the domestic industry, Para (iv) of Annexure-II of AD Rules states as under:

“The examination of the impact of the dumped imports on the domestic industry concerned, shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including natural 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.”

158. The Authority has examined the injury parameters objectively taking into account the facts and arguments of the interested parties.

Cumulation

159. Annexure II para (iii) of the AD Rules provides that in case imports of a product from more than one country are being simultaneously subjected to anti dumping investigations, the Designated Authority will cumulatively assess the effect of such imports, in case it determines that: -

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

160. The Authority observes that:

- The margins of dumping from each of the subject countries are more than de minimus limits prescribed under the rules;

- Cumulative assessment of the effects of imports is appropriate since the exports from the subject countries directly compete with the like articles offered by the domestic industry in the Indian market. This is evident from the following:

a. The subject goods manufactured by the producers from the subject countries *inter-se* and in comparison to the product manufactured by the domestic industry has comparable properties. In other words, the subject goods supplied from various subject countries and by the domestic industry are *inter-se* like articles.

b. The information furnished to the Authority gives a reasonable indication that there are common parties who are resorting to use of imported material from various sources and domestic material. Imported and domestic materials are, therefore, being used interchangeably and there is direct competition between the domestic product & imported product and *inter-se* imported product.

c. Volume of imports from each of the subject countries is significant and not negligible. Further, though the prices of goods imported from Japan are higher than the prices at which goods are imported from China, the price difference between Japanese products and Chinese products imported into India do not imply that they do not compete with each other or that the conditions of competition warrant non-cumulation. The price difference indicates that the Chinese goods and Japanese goods compete among themselves in the Indian market. The authority on the basis of submissions made before it do not find that any preference is being given by the Indian customers to Japanese goods or Chinese goods over the other in terms of quality or other characteristics of the products and the competition is primarily based on prices. Further, it is noted that the subject goods imported from both the countries also compete with the domestically produced goods in India. It is also noted that the subject goods imported from China or Japan are being interchangeably used with the domestically produced goods.

161. In view of the above, the Authority notes that it is appropriate to, cumulatively assess the effect of imports of the subject goods from China PR and Japan on the domestically produced like article, in the light of conditions of competition between the imported products themselves and between the like domestic product and imported subject goods.

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

163. As regards the impact of the dumped imports on the domestic industry para (iv) of Annexure-II of the Anti Dumping Rules states as follows:

“The examination of the impact of the dumped imports on the domestic industry concerned, shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the Industry, including natural and potential decline in

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

Volume of dumped imports and Impact on domestic Industry

Import Volumes and share of subject countries

Imports from the subject countries relative to consumption in India and production of domestic industry

164. It is noted that the imports from subject countries have recorded a significant increase in absolute terms during injury period including POI i.e. from 1.123 million SQM in 2007-08 to 4.046 SQM during 2010-11 recording a significant increase during the injury period. Further, imports have increased significantly in absolute terms in every subsequent year.

Particulars	Unit	2007-08	2008-09	2009-10	2010-11 (POI)
Imports of subject goods from subject countries	Million sqm	1.123	1.554	2.305	4.046
Trend	Indexed	100	138	205	360
China	Million sqm	0.008	0.120	1.572	3.348
Japan	Million sqm	1.116	1.434	0.732	0.697
Imports from Other Countries	Million sqm	0.964	0.791	0.298	0.291
Trend	Indexed	100	70	27	26
Total Imports	Million sqm	2.087	2.344	2.603	4.337
Trend	Indexed	100	112	125	208
Domestic Production	Million sqm	2.290	4.520	8.160	11.910
Imports from subject countries relative to domestic production		49.05%	34.38%	28.24%	33.97%
Demand	Million sqm	4.347	6.364	10.213	15.281
Imports from subject countries relative to consumption		25.84%	24.42%	22.57%	26.48%

165. It is also noted from the above table that imports of subject goods from the subject countries relative to domestic production had declined to 34% during POI from 49% during 2007-08. It is also noted that share of imports relative to consumption in India was showing declining trend in the year 2008-09 and 2009-10 but thereafter the level again reached the same level of 26% as in the year 2007-08

Sales and demand

166. The demand of subject goods has been determined by adding domestic sales of domestic like product with imports of subject goods from all countries. The Authority notes that demand for the subject goods had grown each year and it is further noted that demand of subject goods had increased significantly during the injury period. It is also noted that the sales of subject goods by the domestic industry has also increased significantly during the same period.

Particulars	2007-08	2008-09	2009-10	2010-11 (POI)
Total Domestic sales (million SQM)	2.259	4.020	7.610	10.944
Trend	100	178	337	484
Total Imports (million SQM)	2.087	2.344	2.603	4.337
Trend	100	112	125	208
Demand (million SQM)	4.347	6.364	10.213	15.281
Trend	100	146	235	352
Imports from subject countries (million SQM)	1.123	1.554	2.305	4.046
Trend	100	138	205	360
Share of imports from subject countries in total imports	53.82%	66.28%	88.53%	93.29%

Market shares

167. It is noted that the market share of imports of subject goods from the subject countries as a proportion to total imports has increased significantly in the POI as against the base year. In terms of demand, it is noted that the share of subject countries declined marginally in 2008-09 and 2009-10 from 26% in 2007-08 but in the POI again reached 26% . It is also noted that as the demand for the product has increased significantly, share of domestic industry showed increasing trend each year during the injury period. In fact, it is noted that market share of domestic industry has increased significantly during the injury period.

Market Share	2007-08	2008-09	2009-10	2010-11 (POI)
Demand (million SQM)	4.347	6.364	10.213	15.181
Total Domestic sales (million SQM)	2.259	4.020	7.610	10.944
Share of Domestic Industry %	52	63	74	72
Share of Domestic Industry Trend	100	122	143	139
Share of Subject countries%	25.84%	24.42%	22.57%	25.99%
Share of Subject countries Trend	100	94	87	101
Share of Other countries %	22.18%	12.42%	2.92%	1.92%
Trend	100	56	13	9

Price Effect of the Dumped imports on the Domestic Industry

Price Undercutting

168. With regard to the effect of the dumped imports on prices, it has been examined whether there has been a significant price undercutting by the dumped imports as compared with the price of the like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. In this regard, a comparison was made between the landed value of the product concerned and the average selling price of the domestic industry net of all rebates and taxes, at the same level of trade. To work out Net Sales Realization(NSR) cost of prepress chemicals supplied free of cost was also deducted. The prices of the domestic industry were determined at the ex factory level. This comparison showed that during the period of investigation, the subject goods originating in subject countries were imported in the Indian market at prices which were lower than the Domestic industry selling prices. It is thus noted that imports of subject goods were undercutting the domestic prices and margin of undercutting is considered significant in case of imports from China PR. The price undercutting margin with respect to Japan is negative.

169. The impact on the prices of the domestic industry on account of the dumped imports from the subject countries have been examined with reference to the price undercutting, price underselling, price suppression and price depression, if any. For the purpose of this analysis the cost of production, Net Sales Realization (NSR) and the Non-injurious Price (NIP) of the Domestic industry have been compared with the landed cost of imports from the subject countries.

Particulars	2007-08	2008-09	2009-10	2010-11
Net Sales Realisation (Rs. Per SQM)	***	***	***	***
Net Sales Realisation(index)	100.00	96.99	90.39	85.77
Landed Value				
Subject countries (Rs. Per SQM)	306.83	335.78	295.01	245.65
Subject countries (Index)	100.00	109.44	96.15	80.06
China (Rs. Per SQM)	261.2	273.81	283.63	236.88
China(Index)	100.00	104.83	108.59	90.69
Japan (Rs. Per SQM)	307.14	340.95	319.43	287.77
Japan(Index)	100.00	111.01	104.00	93.69
Price Undercutting				
Subject countries (Rs. Per SQM)	***	***	***	***
China (Rs. Per SQM)	***	***	***	***
Japan (Rs. Per SQM)	***	***	***	***
Price Undercutting % of Landed Value				
Subject countries	(0-10)%	(10-20)%	(0-10)%	0-10%
China	10-20%	5-15%	(0-10)%	5-15%
Japan	(0-10)%	(10-20)%	(10-20)%	(5-15)%

170. It is noted from above that the imports of subject goods from the subject countries undercut the prices of the domestic industry by *** during the POI. Individually, price undercutting in POI in the case of China was *** while there was negative undercutting in case of Japan.

Price underselling:

171. The Authority has also examined price depression, price suppression and price underselling if any, suffered by the domestic industry on account of dumped imports from subject countries. After due examination, it is noted that the domestic industry has suffered price underselling from China PR, however, no underselling from Japan is observed during the investigation period.

Particulars	POI
Non-injurious Price	***
Price Underselling	***
Subject countries	***
China	***
Japan	***
Price Underselling %	
Subject countries	0-10%
China	0-10%
Japan	-(5-15)%

Price Depression

172. It is noted that the Domestic Industry is adversely affected by the reason of price depression i.e the decline in Net selling prices during the injury period. It is further noted that though both the cost to make and sell as well as selling price of the domestic industry has declined during the injury period, except in the year 2008-09, where cost to make and sell increased. However, the decline in the selling price is more than the decline in cost to make and sell the subject goods. The price depression exists.

(Rs. Per SQM)

Particulars	2007-08	2008-09	2009-10	2010-11
Cost to make and sell	***	***	***	***
Cost to make and sell(index)	100.00	114.09	95.60	90.65
Increase(Decrease) from base year		14.09%	-4.40%	-9.35%
Domestic Selling Price	***	***	***	***
Domestic Selling Price(index)	100.00	97.02	90.41	85.80
Increase(Decrease) from base year		-2.98%	-9.59%	-14.20%

Economic parameters of the domestic industry : Impact to the domestic industry on account of volume of dumped imports from subject countries and price effect on account of dumped imports

173. Annexure II to the AD Rules requires that a determination of injury shall involve an objective examination of the consequent impact of these imports on domestic producers

of like product. The Rules further provide that the examination of the impact of the dumped imports on the domestic industry should include an objective and unbiased evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments. The various injury parameters relating to the domestic industry are discussed below.

Capacity, Production, Capacity Utilization

174. The performance of the domestic industry in terms of capacity, production, capacity utilization, sales and market share is as under:-

(Million sqms)

Particulars	2007-08	2008-09	2009-10	2010-11(POI)
Installed Capacity (Plate Division as a whole)	16.77	28.77	28.77	28.77
Production (Digital)Domestic	2.29	4.52	8.16	11.91
Production (Exports)	0.17	0.21	0.68	0.55
Production of the domestic like product.	2.47	4.73	8.84	12.46
Plates other than Product concerned production	11.55	11.35	10.90	10.60
Total Plates Production	14.02	16.08	19.74	23.06
Capacity Utilization (plates division as a whole)	84%	56%	69%	80%

It is noted that there is no dedicated installed capacity for PUC and hence the capacity utilization has been determined by taking into account the next available data i.e plates division of the company as a whole. It is noted that capacity utilization increased in the injury period due to increase in demand for PUC. The production has also increased significantly during the same period.

Domestic Sales

175. It is noted that the domestic sales as well as demand in India have increased significantly over the injury period. It is further noted that the domestic industry has increased its market share in the domestic market during the injury period.

(Million sqms)

Particulars	2007-08	2008-09	2009-10	2010-11 (POI)
Domestic Sales	2.26	4.02	7.61	10.94
Indexed	100	178	337	484
Export Sales	0.16	0.21	0.74	0.83
Indexed	100	129.81	451.56	506.52
Demand	4.30	6.36	10.39	15.47
Demand Indexed	100	146.43	239.03	355.88

Inventories

176. It is noted that the inventory of the domestic industry has increased substantially during the period of investigation. Average inventory has increased both in absolute terms as well as number of days. It has been argued by interested parties that increase in average inventory is due to increase in sales, product range and increase in number of consumers, sizes, depot etc. However, the increase in average inventory in terms of number of days from ***days to ***days indicates adverse impact to the domestic industry.

Inventory	2007-08	2008-09	2009-10	2010-11 (POI)
Inventory (Million Sq. Mtr.)	***	***	***	***
Inventory (Million Sq. Mtr.) (Indexed)	100	227.30	474.82	784.75
Opening Stock(Million Sqm)	***	***	***	***
Closing Stock (Million Sqm)	***	***	***	***
Average Stock(Million Sqm)	***	***	***	***
Stock as no. of days sales	***	***	***	***
Stock as no. of days sales(Indexed)	100	130	138	161

Profits

The profitability of the domestic industry in respect of domestic like product has been examined. It is noted that with the commissioning of new plant in 2008-09, domestic industry suffered losses in 2008-09. Thereafter profit was increased. However, the Profit per unit has declined significantly in the POI as against base year. It has been argued by interested parties that claim of deterioration of profitability is because of excessive expenses charged by the company on account of wages, depreciation and interest. The matter has been examined in detail after verifying the records of the domestic industry and after examination, it was observed that increased charge on overall basis is because of increase in the share of production of PUC in the total production of the company in general and in new plant in particular. Further, it can be seen from the tables below that the incidence of wages, depreciation and interest is increasing in absolute terms. However, per unit of production has increased during 2008-09 and thereafter with the increase in production, the same has declined. Since the issue regarding increasing trend in depreciation, interest has also been raised, figures of the same as examined and verified are tabulated below. It is noted that depreciation and interest cost per unit increased in the year 2008-09 with the starting of new plant and thereafter the cost per unit has decreased.

Profitability

Particulars	2007-08	2008-09	2009-10	2010-11(POI)

Profit/Loss on domestic sales(Rs. Lakhs)	***	***	***	***
Profit/Loss on domestic sales(indexed)	100.00	(264.01)	53.29	77.69
Profit/Loss on domestic sales(Rs. Per SQM)	***	***	***	***
Profit/Loss on domestic sales(Indexed)	100.00	(148.37)	15.82	16.04

Interest	Unit	2007-08	2008-09	2009-10	2010-11
PUC	Rs. In Lakhs	***	***	***	***
PUC	Indexed	100.00	283.62	270.17	345.74
Per Unit	Rs. Per Sqm	***	***	***	***
Per Unit	Indexed	100.00	143.94	75.95	66.61

Depreciation		2007-08	2008-09	2009-10	2010-11
PUC	Rs. In Lakhs	***	***	***	***
PUC	Indexed	100.00	234.27	333.08	417.89
Per Unit	Rs. Per Sqm	***	***	***	***
Per Unit	Indexed	100.00	118.89	93.63	80.51

Cash Flows

177. Cash flow in the year 2008-09 is negative. Thereafter, cash flow for digital plate has increased.

		2007-08	2008-09	2009-10	2010-11(POI)
PUC	Rs. In Lakhs	***	***	***	***
Per Unit	Indexed	100.00	(78.74)	157.32	204.18
PUC	Rs. Per Sqm	***	***	***	***
Per Unit	Indexed	100.00	(44.25)	46.70	42.82

Return on Capital Employed and ability to raise Investments

178. It has been submitted that the domestic industry has been pumping in fresh capital every year to make the industry stronger both in physical and monetary terms. The return on capital employed has been determined considering profit before interest and capital employed for the product concerned. It is noted that the return on capital employed has reduced during the injury period.

Particulars	2007-08	2008-09	2009-10	2010-11 (POI)
Capital employed (Domestic) (Rs. Lacs)	***	***	***	***
Capital employed (Indexed)	100.00	254.76	286.13	364.49
Return On Capital Employed (%) (Domestic)	***	***	***	***
Return On Capital Employed (%) (Indexed)	100.00	(103.63)	18.62	21.32

179. It has been argued by interested parties that Technova continued to infuse huge capital year after year in spite of their claim of low return on their investments. It has been submitted that the additional capacity was added in 2008-09, however the company has claimed increase in capital employed and depreciation each subsequent year during the injury period.

180. It is noted that with the starting of T5 Plant in the year 2008-09 in addition to capacity, increase in the total capital employed, depreciation, interest cost have been observed in the year 2008-09 for the company as a whole. Since the production capacity is common both for PUC and Non PUC, with the increase in the share of production of PUC in the total production of the company and in T5 plant each year, share of capital employed, depreciation and interest allocated to PUC have also increased.

181. The Petitioner has argued that given the current state of affairs where the product is consistently not performing well because of persistent dumping, substantial fresh investments cannot even be imagined. It is considered that dumping of the product and decline in financial performance could impact the ability of the domestic industry to raise capital investments.

182. With regard to ability to raise investments, it is noted that the domestic industry has enhanced the capacities during injury period for which fresh investments have been made. It is, however, noted that the enhancement of capacity has to be seen along with significant increase in demand of the product in the country and the fact that domestic industry has been profitable in the past with regard to production and sale of the product in the Country.

Employment, wages & productivity:

183. The number of employees, wages as well as the productivity per employee are as follows:

Particulars	2007-08	2008-09	2009-10	2010-11(POI)
No. of employees	***	***	***	***

No. of employees (Index)	100	244	329	448
Productivity (SQM Per Employee)	***	***	***	***
Productivity (SQM Per Employee) (Indexed)	100	79	109	113
Wages and Salaries				
Wages and salaries per SQM	***	***	***	***
Wages and salaries (indexed)	100	191	342	472
Wages and salaries per SQM (indexed)	100	97	96	91

184. It is noted that the productivity has increased over the injury period. The employment and wages has also increased over the injury period. The productivity per employee have also increased after a significant fall in the year 2008-09 This parameter does not indicate any injury to the domestic industry. It has been argued by interested parties that number of employees and wages kept increasing every year despite no further additions to capacities. It is noted that there is not much change in the number of employees for the company as a whole. However, increase in number of employees is due to increased allocation due to increase in the production of PUC. It is however noted that while the wages in absolute term has risen very significantly on account of increased production wages per square meter of the PUC has come down over the injury period. Wages per sqm have declined in the POI as against base year

Growth

185. The domestic industry has recorded a positive growth in volume terms and a negative growth in financial terms during the injury period. It is noted that inventories have increased over the period. With regard to price parameters, it is noted that whereas cost of sales, selling price and return on investment have declined, the growth in profits and cash profits has been negative over the injury period.

Factors Affecting Domestic Prices And Evidence Of Lost Contracts

186. It has been submitted that the quality of the goods produced by the domestic industry is on par with the imported goods. It is also noted that the domestic industry has sufficient capacity to meet the entire demand in the country and therefore, availability of material is not a constraint. Delivery problems are also almost non-existent. The sales quantities of the domestic industry is picking up with the increase in demand and as a result of the efforts taken by the domestic industry to develop the market for digital plates in India. The market conditions are favourably disposed towards using the product produced by the domestic industry. However, it has been contended by the domestic industry that the market is forcing the domestic industry to sell the product at very low prices. It is also noted that some of the Indian customers quote the prices at which the imported goods are coming into the country and have asked the domestic industry to match the imported prices. It is thus noted that the major factor affecting the level of domestic prices is the price at which the imported goods enter the country.

Magnitude and Margin of Dumping

187. It is noted that the imports coming into India from the subject countries are above the de minimis level of dumping margin. The dumping margin in respect of subject goods from subject countries as determined in the relevant headings are considered significant.

Non Injurious Price

188. The following are the submissions made by the exporters and other interested parties

- a. Since the company has set up excessive capacities, it is bound to suffer higher incidence of fixed costs. Without prejudice, the non injurious price for the company should be determined considering its capacities. The company has inefficient utilization of production capacities due to excessive capacities set up by the company and the consumers should not be burdened with these excessive fixed costs.
- b. Selling and distribution cost incurred by the Technova should not be included in determination of non injurious price, as landed price of imports does not include the selling and distribution costs being incurred by the importers.
- c. Since imports are by resellers and domestic industry is selling to dealers, the import price is required to be adjusted by 20% to account for the price difference between import price and resale price.

189. The following are the submissions made by Domestic Industry

- a. The Hon'ble Designated Authority has calculated the NIP at ex-factory level and has disallowed post manufacturing expenses while calculating NIP. Hence, the distribution expenses of the resellers of the imported goods should not be taken into account by the Hon'ble Designated Authority.
- b. NIP should be calculated by considering the level of capacity utilization that Domestic Industry can achieve and the best achieved capacity utilization level could not be relied upon due to lack of demand. This argument exemplifies lack of application of mind by the interested party and is contrary to the facts of the present case. As stated by interested party, there is a rise in demand.
- c. Lucky is only trying to mislead and create confusion in the mind of Hon'ble Designated Authority by raising and repeating issues without any factual or legal basis.

190. The following are Examination by authority on the issue of Non Injurious price determination

- a. The Authority has determined the NIP on the basis of the principles for determination of NIP mentioned in Annexure III of AD rules.

- b. As regards submission of interested parties regarding improved performance of the company as per Annual Report and the need for reexamining the profitability of Technova in analogue plates and chemicals, the following is noted. Following the representation by importers, associations and users, the Authority has done detailed analysis of cost structure of plate division. Cost in the plate division i.e. raw materials, utility, depreciation, interest, royalty etc. is directly identified with the plant. The other expenses, which are common for various rates have been allocated to the plates division and other divisions appropriate basis. Furthermore, as already elaborated in these findings the additional expenses on account of interest and depreciation on the additional investments, have not been considered by the Authority.
- c. As regards, the value of supply of free chemicals by the domestic industry along with the contract for supply of the plates, the Authority based on the examination of additional evidence noted that the domestic industry has in fact supplied some of the chemicals as free of cost along with the contracts for supply of plates. In view of the contractual obligation of the domestic industry for supply of free chemicals, the Authority notes that the value of chemicals, supplied as free, was inbuilt in the sales price of the plates. The domestic industry furnished details of the total quantity and values of chemicals supplied free of cost during the POI. However, based on the records verified by the Authority, the Authority notes that the domestic industry could not substantiate its claims both with regards to quantities and valuations of the chemicals supplied as free of cost along with the plates. In view of the same, the Authority has made appropriate adjustments on account of value of chemical supplied free of cost from the NIP. Furthermore, since the selling price for the plates also includes the element of values of chemical supplied as free, a corresponding deduction for an equivalent amount has also being made from the NSR of the domestic industry for a like-to-like comparison.
- d. As regards, the selling and distribution expenses and channels of sales of the domestic industry, the Authority notes that the domestic industry have regional offices as well as storage go downs at various places for distribution and marketing of the subject goods. These storage go downs / warehouses are operated by third parties for which warehousing expenses and incidental cost are reimbursed by the domestic industry. The domestic industry, based on the verification of documents, admitted that the expenses on storage go downs has been included in the cost of subject goods. The domestic industry further admitted that the storage and warehousing expenses being a post ex-factory cost, needs to be excluded from the cost for determination of NIP. Accordingly, these expenses relating to storage and warehousing of finish goods, being a part of distribution network and expenses have been disallowed by the Authority.
- e. As regard the submissions of the interested parties that the domestic industry has deployed extensive work force for sales of the subject goods and the same is also relates to post sales activities, the Authority notes that the domestic industry furnished the information with regards to deployment of its work force in various activities / divisions like manufacturing, administration, regional offices as well as the sale territory offices. The domestic industry also furnished the specific activities being handled / undertaken by the staff deployed for the sales activities. The domestic industry admitted that this includes a total of *** sales staff deployed as

territory sales executive. It was claimed by the domestic industry that these territory sales executive caters only to the plates and chemical division. The Authority notes that the clientage of the domestic industry for various activities including chemicals and trading activities are identical. Therefore, the Authority does not agree with the submissions of the domestic industry that the territory executives cater only to plates and chemical division. Furthermore, the domestic industry in its submissions admitted of providing 24 hour technical support and provides full portfolios of consumables and equipments. In view of the above, the Authority considers the territory sales executive as a part of distribution network of the domestic industry. The expenditure on this account, being an ex-factory cost, has been disallowed by the Authority in the determination of NIP. As stated in these findings above, the expenses to the extent related to post selling expenses and inbuilt in the selling price of the domestic industry have been adjusted from the NIP as well as NSR for comparative analysis.

f. Regarding injury due to safeguard duty on Aluminum plates or calculation of NIP after excluding safeguard duty. It is noted that as per the AD rule on determination of NIP, actual cost for the POI is to be considered. Therefore cost including safe guard duty has been considered. However, it is also noted that safeguard duty levied was specific to China PR and it was also noted that during the POI, the quantity imported from china was ***_ MT, out of its total consumption of 18764 MT during POI. Safeguard Duty of Rs***_lakhs was paid on Aluminum plates the incidence of cost works out to ***_per sqm which is insignificant. In fact, the total domestic sourcing of litho grade aluminum was also ***_MT.

191. The Authority has determined the non-injurious price for the domestic industry taking into consideration cost of production of the domestic industry. This non-injurious price of the domestic industry has been compared with the landed values of the subject goods to determine injury margin. In line with the determination of dumping margins, the injury margin has also been determined for the related companies together taking them as one entity. In line with the observation made in the chapter relating to export price and dumping margin for other producers and exporters from Japan and considering the fact that the Authority after detailed examination did not come across any imports of subject goods from any companies other than M/s Fujifilm Corporation, Japan, the injury margin for other producers and exporters, if any, is proposed to be at same level as that of M/s Fujifilm Corporation, Japan as determined by the Authority. The injury margin has been worked out as follows:

Table showing Injury Margin

Producer	Exporter	IM US\$/Sqm	IM%	IM Group US\$/Sq m	Group IM %
Fujifilm Corporation, Japan	Fujifilm Corporation, Japan	***	-(5-15)%	***	-(5-15)%
Fuji Film Printing Plate Co. Ltd. China(FFPB)	Fuji Film Printing Plate Co. Ltd. China (FFPB).	***	1-10%	***	1-10%

Fuji Film (China) Corporation Ltd.(FFPS)	Fuji Film (China) Corporation Ltd.(FFPS)	***	1-10%		
M/s Kodak (china) graphics communication system Ltd.	M/s Kodak (china) graphics communication system Ltd.	***	-(0-10)%	***	
M/s Kodak (china) graphics communication system Ltd.	Kodak Singapore PTe. Ltd.	***	-(10.20)%	***	-(0-10)%
Lucky Huanguang Graphics Co. Ltd.	Lucky Huanguang Graphics Co. Ltd.	***	30-40%	***	30-40%
Any Other producer/exporter from China PR		***	60-70%	***	60-70%
Any Other producer/exporter from Japan		***	-(5-15)%	***	-(5-15)%

192. The level of injury margin from China PR as determined above is considered significant.

Causal Link

193. The Authority has examined whether other factors listed under the AD Rules could have contributed to injury to the domestic industry. The examination of causal link has been done as follows:

Imports from third countries

194. The Authority has collected the transaction-wise imports data of the subject goods from secondary sources. It is noted that imports beyond de-minimus limits had been reported only from EU. Since there are significant imports from EU, the import price from EU has been examined in detail and compared with import price from subject countries. It is found that import prices from EU were consistently higher than the import prices from subject countries.

Contraction in demand

195. The Authority notes that the demand for the subject goods has shown significant improvement during the injury period. Possible contraction in demand could not have caused injury to the domestic industry.

Changes in the pattern of consumption

196. The pattern of consumption with regard to the product under consideration has not undergone any change, nor did any interested party made any allegation in this regard. Further, the investigation so far has not shown existence of alternate competing products and possible injury being caused by such alternate products.

Trade Restrictive practices of and competition between foreign and domestic producers

197. It is noted that there is a single market for the subject goods where dumped imports from subject countries compete directly with the subject goods supplied by the domestic industry. It is noted that the imported subject goods and domestically produced goods are like articles and are used for similar applications/end uses. There is no evidence of trade restrictive practices of and competition between the foreign producers and domestic producer causing injury to the domestic industry.

Developments in Technology

198. There is no allegation of developments in technology, nor has the investigation so far shown that possible injury to the domestic industry could have been caused by developments in technology.

Export performance

199. The petitioner is also exporting the subject goods. However, the Authority has considered only domestic operations and domestic profitability.

Productivity of the Domestic Industry

200. It is noted that there is no material change in productivity of the domestic industry. Possible decline in productivity cannot be the reason for the established injury to the domestic industry.

Other factors : safeguard duties on aluminum from China PR and increase in the raw material cost as a result of safeguard duties

201. It has been submitted by importers, users and other user association that imposition of safeguard duties from China PR has increased the raw material costs of the domestic industry and injury, if any, to the domestic industry, has been caused by the other factors i.e increase in the raw material costs and not the dumped imports of subject goods from the subject countries. The domestic industry has rebutted the arguments of the other interested parties and has stated that the increase in raw material costs on account of safeguard duties on Aluminum was insignificant. The Authority has examined the matter and notes that article 3.5 of the ADA and Annexure to the Anti dumping rules state that

"It must be demonstrated that the dumped imports are, through the effects of dumping, as set forth in paragraphs 2 and 4, causing injury within the meaning of this Agreement. The demonstration of a causal relationship between the dumped imports and the injury to the domestic industry shall be based on an examination of all relevant evidence before the authorities. The authorities shall also examine any known factors other than the dumped imports which at the same time are injuring the domestic industry, and the injuries caused by these other factors must not be attributed to the dumped imports. Factors which may be relevant in this respect include, inter alia, the volume and prices of imports not sold at dumping prices, contraction in demand or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers,

developments in technology and the export performance and productivity of the domestic industry."

202. It is clear that, pursuant to above provision, a causal link between dumped imports and injury to the domestic industry must be established for the imposition and maintenance of an anti-dumping duty under the AD Agreement and Anti dumping rules. In this connection, it may be recalled that previous panel and Appellate Body reports make it clear that while an investigating authority is required to consider the effects of other factors known to the investigating authority which may be causing injury to the domestic industry, there is no required method of analysis in undertaking that examination. In this case, it is noted that apart from the injury caused by the dumped imports from subject countries as mentioned in the earlier paragraphs, the domestic industry was impacted by increase in the raw material costs due to imposition of safeguard duty. However, it is noted that the increase in the raw material costs on account of safeguard duty was very insignificant (as has been mentioned in the headings concerning injury in the earlier paragraphs).

Other factors: Additional investment by Technova

203. M/s Technova had initially estimated the capital cost of new digital plant at Rs ***_ crores. Subsequently, it had revised its project cost to Rs ***_ crores to upgrade the technology and enhance the capacity. In this connection, the domestic Industry submitted documents/data/information. On scrutiny of the documents/information, the Authority noticed certain deficiencies in their submissions. The DI was requested to clarify the position. Since the submissions made by the DI did not clarify the issues pointed out by the Authority, the capital cost of the new plant has been restricted to the level of investment contemplated in the original project report for the purpose of injury analysis and determination of NIP.

Other factors : NIP lower than NSR

204. It has been submitted by some of the interested parties that NSR is higher than NIP in this case and therefore there is no injury to the domestic industry. The matter has been examined and it is noted that NIP for the domestic industry works out to Rs.*** per sqm as against the NSR of the domestic industry of Rs. *** On the issue of NIP being lower than NSR in this case(it is marginally lower in this case), it is noted from a plain reading of Annexure II of the anti dumping rules that a determination of injury shall involve an objective examination of both (a) the volume of the dumped imports and the effect of the dumped imports on prices in the domestic market for like article and (b) the consequent impact of these imports on domestic producers of such products. Thus, it is noted that the Authority examines volume of the dumped imports, price effect of dumped imports and its impact on domestic industry producing domestic like product in terms of mandatory injury parameters as mentioned in the Anti dumping rule for determination of injury to the domestic industry. Thus, the presence or absence of material injury is not decided only on the basis of fact that NSR is lower or higher than NIP. In fact as per lesser duty rule, the Authority recommends imposition of anti-dumping duty equal to the lesser of margin of dumping and margin of injury, so as to remove the injury to the domestic industry. In this instance case, as mentioned in the analysis above, it is

noted that dumping margin and injury margin is positive (injury margin is negative for Japan). In fact, the dumping margin from subject countries is considered significant. Further, there is a positive price effect i.e price undercutting, price depression and price underselling is positive. With regard to price effect on account of such dumped imports and its impact on the domestic industry, the analysis as mentioned above indicates that the material injury to the domestic industry has been caused on account of dumped imports.

Factors establishing causal link

205. Analysis of the performance of the domestic industry over the injury period shows that the performance of the domestic industry has materially deteriorated due to dumped imports from the subject countries. Therefore, the causal link between dumped imports and the injury to the domestic industry is established on the ground that the volume of dumped import from the subject countries have significantly increased during the injury period and the dumped subject goods were exported into India at significantly lower prices during the injury investigation period, resulting in significant price depression, undercutting and underselling which has adversely affected the operating performance of the domestic industry.

G Conclusion on Injury and causation

206. There has been a significant increase in the volume of dumped imports from subject countries at the absolute level. The market share of dumped imports in total imports of subject goods has also increased significantly. It is also noted that the dumped imports from China PR was significantly undercutting the prices of the domestic industry in the market. It is also determined that the dumped imports have had significant adverse price effect in terms of price depression and price underselling. Further, the dumping margins from responding producers and exporters from subject countries have been determined and is considered significant.

207. It is noted that dumped imports of subject goods from subject countries have adversely impacted the inventory levels of the domestic industry. Further, it is also noted that the dumped imports have had significant adverse price effect in terms of price depression and price underselling which in turn have led to significant deterioration in profits and return on investments. Therefore, the Authority on the basis of above analysis concludes that the domestic industry has suffered material injury and such injury has been caused because of dumped imports from the subject countries.

208. The Authority therefore, holds that material injury to the domestic industry has been caused by the dumped imports of subject goods from the subject countries.

I. Indian industry's interest & other issues:

209. The Authority notes that the purpose of anti-dumping duties, in general, is to eliminate injury caused to the Domestic Industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the Country. Imposition of anti-dumping measures would not restrict imports from the subject country in any way; and therefore, would not affect the availability of the product to the consumers.

210. It is recognized that the imposition of anti-dumping duties might affect the price levels of the product manufactured using the subject goods and consequently might have some influence on relative competitiveness of these product. However, fair competition in the Indian market will not be reduced by the anti-dumping measures, particularly if the levy of the anti-dumping duty is restricted to an amount necessary to redress the injury to the domestic industry. On the contrary, imposition of anti-dumping measures would remove the unfair advantages gained by dumping practices, would prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods.

J. Recommendations

211. Having regard to contentions raised, information provided and submissions made by interested parties and facts available before the Authority as recorded in the above findings and on the basis of above analysis of the state of dumping and consequent injury to domestic industry, the Authority concludes that

- (a) The product under consideration has been exported to India from the subject countries below their associated Normal values.
- (b) The domestic industry has suffered material injury on account of subject imports from subject countries. The material injury has been caused by the dumped imports of subject goods from the subject countries. However, the Authority notes that the injury margin was negative for the goods exported from Japan as the landed value of those goods were higher than the non-injurious price determined for the domestic industry. In view of the same, Authority does not recommend any anti dumping duty on the subject goods imported from Japan.

212. The Authority notes that the investigation was initiated and it was notified to all interested parties. Adequate opportunity was given to the exporters, importers and other interested parties to provide information on the aspects of dumping, injury and causal link. Having initiated and conducted a investigation into dumping, injury and the causal link thereof in terms of the AD Rules and having established positive dumping margins as well as material injury to the domestic industry caused by such dumped imports, the Authority is of the view that imposition of duty is required to offset dumping and injury. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of definitive anti-dumping duty equal to the lesser of margin of dumping and margin of injury, so as to remove the injury to the domestic industry. For the purpose of determining injury margin, the landed value of imports of product under consideration has been compared with the non-injurious price of the domestic like product produced by domestic industry determined for the period of investigation. As injury margin in case of imports from

Japan is negative, no anti dumping duty is recommended to be imposed on subject goods being imported from Japan.

213. With regard to duty structure, keeping into account factual matrix of the case and having regard to contentions raised, information provided and submissions made by interested parties, it is deemed appropriate to recommend benchmark/reference form of anti dumping duties, equal to the difference between the amount indicated in the column 9 of the table below and landed value, to be imposed from the date of notification to be issued in this regard by the Central government on all imports of subject goods originating in or exported from China PR.

S. No	Sub heading or Tariff Item	Description of goods	Country of origin	Country of export	Producer	Exporter	Specification	Amount	Currency	Unit
1	2	3	4	5	6	7	8	9	10	11
1	8442.502, 3701.3000, 3704.0090, 3705.1000, 7606.9191, 7606.9290	Digital Offset Printing Plates*	China PR	China PR	Fuji Film Printing Plate Co. Ltd. China(FFPB)	Fuji Film Printing Plate Co. Ltd. China(FFPB)	Violet	5.81	US\$	Sqm
							Thermal	5.39	US\$	Sqm
							CtCP**	4.87	US\$	Sqm
2	8442.502, 3701.3000, 3704.0090, 3705.1000, 7606.9191, 7606.9290	Digital Offset Printing Plates*	China PR	China PR	Any combination other than serial no 1		Violet	5.81	US\$	Sqm
							Thermal	5.39	US\$	Sqm
							CtCP**	4.87	US\$	Sqm
3	8442.502, 3701.3000, 3704.0090, 3705.1000, 7606.9191, 7606.9290	Digital Offset Printing Plates*	China PR	China PR	Fuji Film (China) Corporation Ltd.(FFPS)	Fuji Film (China) Corporation Ltd.(FFPS)	Violet	5.81	US\$	Sqm
							Thermal	5.39	US\$	Sqm
							CtCP**	4.87	US\$	Sqm
4	8442.502, 3701.3000, 3704.0090, 3705.1000, 7606.9191, 7606.9290	Digital Offset Printing Plates*	China PR	China PR	Any combination other than serial no 3		Violet	5.81	US\$	Sqm
							Thermal	5.39	US\$	Sqm
							CtCP**	4.87	US\$	Sqm
5	8442.502, 3701.3000, 3704.0090,	Digital Offset Printing	China PR	China PR	M/s Kodak (china)	M/s Kodak (china)	Violet	N/A	US\$	Sqm

	3705.1000, 7606.9191,76 06.9290	Plates*			graphi cs comm unicati on system Ltd.	graphi cs commu nicatio n system Ltd.	Thermal	N/A	US\$	Sqm
							CtCP**	N/A	US\$	Sqm
6	8442.502, 3701.3000, 3704.0090, 3705.1000, 7606.9191,76 06.9290	Digital Offset Printing Plates*	China PR	China PR	M/s Kodak (china) graphi cs comm unicati on system Ltd.	Kodak Singap ore Pte. Ltd..	Violet	N/A	US\$	Sqm
							Thermal	N/A	US\$	Sqm
							CtCP**	N/A	US\$	Sqm
7	8442.502, 3701.3000, 3704.0090, 3705.1000, 7606.9191,76 06.9290	Digital Offset Printing Plates*	China PR	China PR	Any other combination of producer and exporter at 6 above		Violet	5.81	US\$	Sqm
							Thermal	5.39	US\$	Sqm
							CtCP**	4.87	US\$	Sqm
8	8442.502, 3701.3000, 3704.0090, 3705.1000, 7606.9191,76 06.9290	Digital Offset Printing Plates*	China PR	China PR	Lucky Huang uang Graphi cs Co. Ltd.	Lucky Huang uang Graphi cs Co. Ltd.	Violet	5.81	US\$	Sqm
							Thermal	5.39	US\$	Sqm
							CtCP**	4.87	US\$	Sqm
9	8442.502, 3701.3000, 3704.0090, 3705.1000, 7606.9191,76 06.9290	Digital Offset Printing Plates*	China PR	China PR	Any combination other than serial no 7		Violet	5.81	US\$	Sqm
							Thermal	5.39	US\$	Sqm
							CtCP**	4.87	US\$	Sqm
10.	8442.502, 3701.3000, 3704.0090, 3705.1000, 7606.9191,76 06.9290	Digital Offset Printing Plates*	China PR	China PR	Any combination other than all above		Violet	5.81	US\$	Sqm
							Thermal	5.39	US\$	Sqm
							CtCP**	4.87	US\$	Sqm
11	8442.502, 3701.3000, 3704.0090,	Digital Offset Printing	China PR	Any other than	Any	Any	5.81	5.81	US\$	Sqm
							5.39	5.39	US\$	Sqm

	3705.1000, 7606.9191,76 06.9290	Plates*		subject countries			4.87	4.87	US\$	Sqm
12	8442.502, 3701.3000, 3704.0090, 3705.1000, 7606.9191,76 06.9290	Digital Offset Printing Plates*	Any other than subject countries	China PR	Any	Any	Violet	5.81	US\$	Sqm
							Thermal	5.39	US\$	Sqm
							CtCP**	4.87	US\$	Sqm

*Conversion factor From Kg to Sq mtr is 1 Kg=1.318 sq mts, for 28 mm thickness plate. If the thickness of the plate varies, the square meter for kg of the product will vary proportionately. 1 Sq mtr=0.7588 kg.

** Computer to Conventional Plate also known as UV- CTP plate.

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

214. Subject to the above, the Authority confirms the preliminary findings dated 16th March 2012.

Further Procedure

215. The following procedure would be followed subsequent to notifying the final findings: -

216. An appeal against the order of the central government shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act.

(Vijaylaxmi Joshi)
Designated Authority