

To be published in Part-I Section I of the Gazette of India Extraordinary  
F.No.14/17/2007-DGAD  
Government of India  
Ministry of Commerce & Industry  
Department of Commerce  
(Directorate General of Anti Dumping & Allied duties)  
\*\*\*\*\*

## **Final Findings**

**Subject: Final findings of Anti-dumping investigations on imports of Digital Versatile Discs- Recordable (DVD-R and DVD-RW) from China PR, Hong Kong, and Chinese Taipei.**

**NO. 14 /17/2007-DGAD:** - Having regard to the Customs Tariff Act 1975 as amended in 1995 (hereinafter referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, (hereinafter referred to as the Rules) thereof:

### **A. Background and initiation**

2. Optical Disc Manufacturers Welfare Association (ODMWA), New Delhi (herein after referred to as the Applicant) submitted an application before the Designated Authority (hereinafter referred to as this Authority), in accordance with the Customs Tariff Act, 1975 as amended in 1995 and Customs Tariff (Identification, Assessment and Collection of Anti Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, alleging dumping of Digital Versatile Discs Recordable (DVD-R and DVD-RW) (hereinafter referred to as subject goods), originating in or exported from the China PR, Hong Kong, and Chinese Taipei (herein after referred to as subject countries) and requested for initiation of Anti Dumping investigations for levy of anti dumping duties on the subject goods. The embassies of subject countries were notified about the receipt of fully documented application as per Rule-5(5).

3. The Authority on the basis of sufficient evidence submitted by the applicant on behalf of the domestic industry, issued a public notice dated 20<sup>th</sup> November, 2007 published in the Gazette of India, Extraordinary, initiating Anti-Dumping investigations concerning imports of the subject goods originating in or exported from the subject countries in accordance with sub-Rule 6(1) of the Rules to determine the existence, degree and effect of alleged dumping and to recommend the amount of antidumping duty, which if levied would be adequate to remove the injury to the domestic industry.

4. The Authority notified its preliminary findings vide Notification dated 16th June 2008 recommending provisional anti-dumping duty on import of subject goods from the subject countries and acting upon such recommendations of the Authority, the Department of Revenue, vide its notification No.89/2008-Customs dated 23rd July, 2008 imposed provisional anti-dumping duty on the subject goods.

## **B. Procedure**

5. Procedure described below has been followed with regard to this investigation after issuance of the public notice notifying the initiation of the above investigations by the Authority:-

(a) The Designated Authority sent copies of initiation notification dated 20.11.2007 to the Embassies of the subject countries in India, known exporters from the subject countries, importers and the domestic industry as per the addresses made available by the applicant and requested them to make their views known in writing within 40 days of the initiation notification.

(b) The Authority provided copies of the non-confidential version of the application to the known exporters and to the Embassies of subject countries in accordance with Rule 6(3) supra.

(c) The Authority sent questionnaires, to elicit relevant information to the known exporters in subject countries in accordance with Rule 6(4). The Authority also sent questionnaire concerning Market Economy Treatment to exporters of China PR.

(d) The Embassies of the subject countries in New Delhi, were informed about the initiation of the investigation in accordance with Rule 6(2) with a request to advise the exporters/producers from their countries to respond to the questionnaire within the prescribed time. A copy of the questionnaire sent to the exporters was also sent to Embassies of subject countries along with the names and addresses of the exporters.

(e) Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of imports of subject goods for the past three years and the period of investigation and data received from DGCI&S have been relied upon in this findings;

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

(g) Optimum cost of production and cost to make and sell the subject goods in India based on the information furnished by the applicant on the basis of Generally Accepted Accounting Principles (GAAP) was worked out provisionally so as to ascertain whether Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to Domestic Industry;

(h) In response to the above said notification none of the exporters from the subject countries filed their responses to questionnaire.

(i) The Govt. of Hong Kong, Special Administrative Region(HKSARG) has submitted information. The information, to the extent possible has been relied upon in the findings. M/s Allied Electronics & Magnetic Ltd., New Delhi has submitted information as an importer. The information has been relied upon in the findings. Other exporters and importers who have not submitted information are being treated as non-cooperating exporters and importers.

(j) m) The Designated Authority sent copies of preliminary findings dated 16th June 2008 to all known interested parties including, the

responding importer and users of the subject goods, Embassies of the subject countries in India, and the domestic industry and invited the comments of the interested parties on the preliminary findings. Parties to this investigation were requested to make their views known in writing within 40 days (or extended period) of the notification of preliminary findings.

(k) The comments of the interested parties in response to the preliminary findings have been taken on record and have been discussed in appropriate sections of the findings.

(l) The Authority held a public hearing on 14th August, 2008 to provide an opportunity to all interested parties to present their view. Oral submissions made by the parties during the public hearing reproduced in writing have been taken on record for the purpose of this investigation.

(m) The confidentiality claims of domestic industry in respect of the data submitted by them have been examined. The data concerning costing, customers, prices have been treated as confidential. The information relating to volume of subject goods for the period of investigation has not been treated confidential.

(n) 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 also been duly considered in the findings.

(o) Investigation was carried out for the period starting from 1st April 2006 to 30th June 2007 (POI). The examination of trends in the context of injury analysis covered the periods from April 2003-March 2004, April 2004-March 2005, April 2005-March 2006 and the POI.

(p) \*\*\* in this finding represents information furnished by the interested parties on confidential basis and so considered by the Authority under the Rules.

### **C. Product under Consideration**

7. The product under consideration in the present petition is Recordable Digital Versatile Disc [DVD] of all kinds. DVD can be of a number of types, such as DVD-R, DVD+R, DVD-RW, DVD+RW, mini DVD-R, mini DVD-RW, mini DVD+R, mini

DVD+RW , DVD+R DL , DVD-R DL. A DVD can be recorded once or several times.

## **DISC CONSTRUCTION AND MANUFACTURING STEPS OF CONSTRUCTION OF DVD-R and DVD+R DISCS**

8. DVD-R and DVD+R discs can be either single or double-sided. A single-sided (SS) disc is composed of a recording side and a dummy side while a double-sided (DS) disc consists of two recording sides. The recording side of a DVD-R and DVD+R disc is a sandwich of a number of layers.

**Mastering :** A process of forming a master for optical disks, generally referred to as "mastering", is where a nickel or the like metallic master, i.e., "stamper", is formed at its final step. A large number of optical disks are duplicated with use of the stamper as a mold in a succeeding molding process.

**Moulding:** First comes a polycarbonate plastic substrate containing a shallow spiral groove extending from the inside to the outside diameter of the disc.

**Dye Coater:** In this section an organic dye recording layer (AZO) is applied on blank substrate . This layer acts as recording layer. Dye is applied using spin coating and the metal layers by means of DC sputtering.

**Sputter (Metallizing):** A metal reflective layer is applied on disc (silver).

**Bonding:** An adhesive then bonds two recording sides (for a double-sided) or a recording and dummy side (for a single-sided) together into the final disc. Some single-sided discs are also topped on the dummy side with decorations or additional layers that provide surfaces suitable for labeling by inkjet, thermal transfer or re-transfer printers. Bonding is done by using a hot melt, UV cationic or free radical process

**Printing:** Then required printing design is applied by screen printing method.

**Construction of DVD-RW and DVD+RW:** To allow information to not only be written but also re-written many times over, DVD-RW, DVD+RW) disc construction is more complex than that of DVD-R and

DVD+R (recordable). Just like a recordable disc, a rewritable disc can be either single or double-sided. The recording side of a rewritable disc also uses multiple layers beginning with a polycarbonate plastic substrate containing a shallow spiral groove extending from the inside to the outside diameter of the disc.

Next comes a dielectric layer (zinc sulfide and silicon dioxide), followed by a phase-change alloy recording layer (either indium, silver, tellurium and antimony or germanium, tellurium and antimony), another dielectric layer and a metal reflective layer (silver, silver alloy, aluminum). Additional layers may also be incorporated above or below the dielectric layers (germanium nitride, silicon carbide, silicon dioxide, silicon nitride, zinc sulfide, antimony telluride and others).

The dummy side consists of a flat polycarbonate plastic substrate sometimes with an additional metal layer. An adhesive then bonds the sides together into a single disc.

9. The product is classified under ITC (HS) and Customs Classification No.8523. The product is import of the subject products is being made under Chapter 8523 of the Customs Classification with the following subheading:

85232920,85232950,85232970,85234040,85234050,85234060;8523408,8523409,85238090,85235290,85238050,85239010,85239040,85239050 and 85239090.

10. However the above classification is indicative only and is no way binding on the investigation.

### **C.1. Like Article**

11. The domestic industry manufactures 'DVD', which is identical to the product under consideration. The goods originating in or exported from the subject countries and produced by the domestic industry are comparable in terms of physical & technical characteristics, functions and uses. The two are technically and commercially substitutable. After preliminary findings, no interested party has raised any issue on the like article, therefore, for the purpose of the present investigation, Digital Versatile Disc produced by the domestic industry is being treated as like article to Digital Versatile Disc imported from subject countries within the meaning of the Anti Dumping Rules.

### **D. 'Standing' and the Domestic Industry**

12. The application has been filed by Optical Disc Manufacturers Welfare Association, New Delhi, (ODMA) on behalf of the domestic industry. There are three producers of the subject goods in India who are also members of ODMA . Moserbaer Ltd. one of the producers of the subject goods has provided all relevant information. The applicant has support of producers accounting for 100% of the domestic production of the subject goods in India, therefore, has desired standing to file the application. Further, production, of Moser Baer who has provided all the information, is above 80% of the Indian production, therefore, constitutes domestic industry within the meaning of rule 2(b) of the Rules.

### **E. Submission made by interested parties**

#### **E.I. Submission made by The Govt. of Hong Kong Special Administrative Region (HKSARG)**

13. No exporter from Hong Kong has responded to the investigation. However, **Hong Kong Special Administrative Region (HKSARG)** has made the following submissions:-

14. Names of the exporters provided in the petition are incorrect . It has also been pointed out that the existence of actual Hong Kong producers exporting DVD R to India appears to be questionable. The HKSARG disputes that “Hong Kong producers have actually exported to India the shipment listed in the Impex Table (annexure 1.5)”. However, the HKSARG has provided information procured from **Optical Disc Manufacturing and Technology Association (ODMTA)** in respect of Normal value and export price to market other than India of the Hong Kong DVD R industry. It has also been stated that the information collected from DVD industry in Hong Kong and has been thoroughly verified by ODMTA for submission. It has further been stated that the objective to file the submission is to provide the Authority reliable and accurate information on cost and prices in Hong Kong for determination of Normal value and Export price.

15. The average raw material cost of polycarbonates in Hong Kong is 37% cheaper than the alleged cost as set out in the petition document. The cost of polycarbonates in Hong Kong should be the lowest among the three economies, contrary to the allegation of the petitioner that the cost is the highest in Hong Kong.

16. It has been stated that they have been given to understand that import data in Annexure 1.5 very likely cover “Grade B” products, which are DVD-R being rejected during the quality control process and hence their price is substantially lower than the normal products. Such rejected or substandard goods cannot be considered as a like product of DVD-R meeting the international quality standards and should therefore be

dealt with separately. If necessary, ODMTA can provide the normal value of the substandard Grade B products separately, which would be a great deal lower than the normal value of the normal DVD-R products. It has been stated that they understand from ODMTA that certain discount in price is possible in case a buyer purchases a very large quantity. This is normal business practice and applies to both export and local sale without any discrimination.

17. The domestic industry improved in terms of everything including capacity utilization, production, market share, productivity, employment, wages etc., except profit. It has been reiterated that the domestic industry performed well both in the Period of Investigation and in years preceding it, and there is no conclusive evidence of injury. Moser Baer is the number one optical media manufacturer in the Indian market and among the top three media manufacturers in the world. Moser Baer is enjoying a good profitability rather than suffering losses.

18. Even in the unlikely event that there is dumping, imports from Hong Kong cannot be the cause of the alleged injury. The real cause for any alleged injury, even if there is any, would be the declining price in DVD-R both in India and elsewhere in the world, due to the declining price trend on a global basis.

19. It has been requested that any Hong Kong exporters which may be identified after the presentation, as well as other interested parties including HKSARG and ODMTA, be given a reasonable amount of time for completion of questionnaire and submission of further representations.

## **E.2. Submissions made by Optical Disc Manufacturing & Technologies Association Ltd. (ODMTA)**

20.

- a. The information that related to the cost of PC material for Hong Kong is wrong.
- b. The normal value for Hong Kong import was based on wrongful information, and therefore, it is wrong.
- c. The list of Hong Kong exporters was wrong.
- d. Data of Annex 1.5 was missing. Therefore, the total exports of Hong Kong cannot be verified.
- e. Import data for Polycarbonate for the period April-06 to February-07 provided by DGCI&S was misleading and credential for DGCI&S is not provided.
- f. Statement of country wise import as per impex Statistics in Annex 1.4 was misleading. And the credential of Impex Statistics is not provided.

g. As the MBI reports show that MBI itself already naming the largest and 2nd largest supplier of the world for CDR and DVDR. Its capacity already exceeding 2.8 billion and expanding to 3.4 billion. Exceeding the Indian Total capacity (1.656 billion) by almost 69% during the period of investigation. This shows the AD document's data are simply not accurate.

h. As indicated by the document "injury Information of Domestic Industry", the total production capacity of India during the period of investigation is 1.656 billion, comparing to the figure of 6.15 million of imports from Hong Kong (no proof figure), which is less than 1% of India's total capacity, will this really cause India's market injury?

After preliminary findings, no submission was made by ODMTA.

### **E.3. Submissions made by M/s Allied Electronics & Magnetic Ltd. (Importer)**

21. Some of the large manufacturers of this product, internationally and also in India (only one manufacturer) are viably selling the product in international and Indian Market at low prices, because they enjoy the benefit of production volumes.

22. Amkette has been importing the DVDRs at higher average prices than what has been mentioned in the petition.

23. Some importers may import the products at lower cost than international price, using under hand practices. But this is the area of Customs Department to determine if there is any under valuation. Customs department has the right to impose penalty/ additional duties, wherever it is felt that prices are un justifiably low.

24. DVDRs are available in open international markets at the price ranging from 12US cents to 16 US cents in market economy countries such as Taiwan or Hong Kong or USA. Price information is in public in public domain and can be easily accessible on internet etc.

25. There is only one major manufacturer in India for DVDRs, having market share in excess of 90% and hence it is not correct to say that price levels in India are in reasonable proportion to production cost and market situation.

26. Import prices from countries other than countries under investigation are higher as imports as imports from these countries also include DVDRs in different packaging such as Jewel case , 10 PK etc.

27. No separate data/ cost details / pricing information in respect of DVD-RW & Mini DVD-RW has been submitted in the petition.

28. In the data submitted by the petitioner , no prima-facie evidence of dumping of DVDRWs and mini DVDRWs has been submitted which establishes injury to the domestic industry. All data submitted by the petitioners such as import data, prices, dumping, margins as also the production capacity etc. are pertaining to DVDRs.

29. In the initiation notification it has been mentioned that there are three producers of the subject goods in India. –M/S- Moserbaer, M/s- Euro Multivision and M/S- Computer Skill. This is not correct as far as DVDRW is concerned.

30. All the argument of the petitioner in their application to establish the injury and causal link are based on volume and value of dumped imports, only for DVDRs. Hence to include DVDRWs and Mini DVDRWs for anti dumping investigation is not justifiable.

### **Submissions after Preliminary Findings**

31. After the preliminary findings, HKSARG stated that the preliminary findings are inaccurate and demanded for disclosure of the calculation of normal value and export price and also stated that the Indian authority should reexamine the evidence for dumping and take account of views and information supplied by ODMTA. HKSARG also questioned the claim of injury to the domestic industry and the causation of the alleged injury. It was further stated that Indian authority should re-examine the injury claim with the exceptional circumspection, and to take full account of other factors for the decline in price of DVD products notably global decline in prices.

32. The HKSARG stated that they ‘strongly object to the wholesale suppression of the data employed in the calculation of normal value and export price, which deprives Hong Kong of a fair opportunity of defense.’ It has been stated that the verified data of the domestic industry are not the actual data on Normal Value and Export Price, but are just estimates based on the domestic industry’s own data, and we believe that they should not be relied upon, or at least before verifying them against other more credible sources.

33. HKSARG objected that inland freight which was taken @ 0.25% for Hong Kong is same as that of China PR and Chinese Taipei on the ground Hong Kong is a port city with excellent transport infrastructure and is small in size, therefore, the average inland freight should be much lower than the average inland freight in mainland China.

34. HKSARG objected that the Indian authority has rejected the calculation of the normal value and export price supplied by ODMTA as the data was obtained by reference to actual supplied by the DVD manufacturing industry in Hong Kong, and are far more reliable than those supplied by the petitioner in India. It was further stated that no request was received by HKSARG or ODMTA for verification of the information, therefore, it is unfair to refuse the information from ODMTA without any attempt to verify its reliability. The reliability of the data supplied by ODMTA can be confirmed by various independent sources. According to a market research article published by Globle Sources (Weblink: <http://www.global-sources.com/gsol/I/Blank-DVD/a/9000000088461.htm>), a NASDAQ listed company bridging buyers and suppliers around the world, the quoted price of DVD-R manufactured in Hong Kong ranged from 13 to 15 US cents per piece which is very close to the export price calculated by ODMTA. We understand that ODMTA stands ready to provide all appropriate documentary evidence, including that from DVD manufacturing not engaged in export of the DVD products to India, in support of its calculation of the normal value and export price. ODMTA's work is, however, inhibited by the lack of the provision of the names of the actual Hong Kong manufacturers and exporters of DVD-R to India. In the circumstances, ODMTA could not identify the actual manufacturers/exporters for the actual data notwithstanding all its hitherto efforts to search for the actual manufacturers/exporters.

35. Regarding injury and causal link, HKSARG stated that the preliminary findings have established that the performance of the domestic industry improved in terms of the majority performance indicators including production, capacity utilization, sales, market share, employment, inventory, growth, investment, etc. While it is claimed in the preliminary findings that price performance indicators in terms of selling price, profits and return on investment are negative, it is obvious that the performance indicators taken together are at most mixed if not positive overall, and the claim for material injury as reflected in the performance indicators is at best inconclusive.

36. Given that 60% of the market was taken up by domestic production and its increasing trend, it is doubtful whether imports vis-à-vis the domestic product have a stronger effect on prices. Indeed, the overwhelming market share of domestic production suggest that export prices, including their decline, might indeed be a response to the prices set by the domestic industry, instead of vice-versa.

37. HKSARG further believe that decline in sales price of DVD products is a general global trend both in India and elsewhere around the world, therefore, Indian authority may check the export price of Indian industry as well as global price of DVD product so as to establish the true cause of price decline, and not to attribute them superficially to dumped imports.

38. Moserbaer who accounts for lion's share of the domestic production, performed very well financially in the financial year ending 31st March 2007. It is doubtful whether Moserbaer financial performance would differ significantly in the POI (April 2006-June 2007). This may be contradictory to the claim that Moserbaer suffered loss of injury. Even if the claim of financial loss is partly true in respect of domestic market, the relevant financial data should be examined with extreme circumspection in conjunction with the financial statement.

39. Of the 38.7% of all imports in the total market share, imports from Hong Kong only accounted for 4.6% thus imports from Hong Kong was in no position to influence materially the market price of DVD products and hence cause injury to the domestic industry.

40. The alleged dumping margin for Hong Kong is lowest among China PR, Hong Kong and Chinese Taipei, on the other hand, the provisional duty for Hong Kong are not the lowest.

#### **E.4. Examination by the Authority**

41. Before notifying the preliminary findings, The Authority had taken note of the arguments of the HKSARG and Amkette . It was also noted that HKSARG had provided estimated cost of production. It was further noted that estimated cost of production was provided without any back up evidence. The Authority for estimated cost of production relied on the data available on public domain in respect of prices of raw materials. Regarding utilities the data provided by HKSARG was relied upon. For other information it was stated in the Preliminary Findings that if the data from actual manufacturer is provided by HKSARG, the same would be relied upon after its verification. It has been noted that no such information has been provided.

42. In respect of the submissions concerning injury to the domestic industry the Authority has noted that analysis of injury to the domestic industry has been done on the basis of verified data of the domestic industry.

43. HKSARG objected that in the preliminary findings, the expenses on internal transportation should be less for Hong Kong and Chinese Taipei as compared to mainland China. In this regard, concerning internal transportation, the adjustment has now been revised and made @ 0.1% in respect of Hong Kong and Chinese Taipei. The revised calculations have been reflected in calculations of export prices.

44. Concerning issue of higher anti-dumping duty on Hong Kong though the weighted dumping margin is lower in the case of Hong Kong as compared to Chinese Taipei. The authority has noted that the weighted dumping margin has been expressed as

percentage of the export price. As the export price and dumping margin values are different, therefore the weighted dumping margin expressed in percentage term is not reflective of actual dumping margin in absolute term, therefore, the dumping margins expressed as a percentage of export prices are not reflective of actual dumping margin of other countries. The duty has, however, been imposed depending upon the actual dumping margin in absolute term.

**F. Methodology for calculation of dumping margin**

**Normal Value**

**F.1 Normal Value for non co-operating exporters from China PR.**

45. No exporters from China PR has responded to the Initiation Notification and provided any information about normal value and market economy treatment. The presumption of non market economy as per para 8 of Annexre-1 of the Rules remain un rebutted. The Authority, therefore, has constructed the normal value as per para 7 of the Annexure-1 by using method “on any other reasonable basis”. For this purpose the price of major raw material, Polycarbonate has been taken from World Trade Atlas as average export price from China PR. Prices of other raw materials, consumption norms for the raw materials , utilities and conversion cost have been taken as that of the domestic industry in India. To this financial cost and profit @5% each has been added to construct the normal value. By this methodology, the normal value for China PR has been determined as below.

Value in US\$ per’000 Pcs.

Normal value	Cake box	BOS
DVD-R	***	***
DVD-RW		***

**F.2. Normal Value for non co-operating exporters from Hong Kong.**

46. No exporters from Hong Kong has responded to the Initiation Notification and provided any information about normal value. In absence of the co-operation from exporters the Authority has constructed normal value on the basis of facts available as per Rule-6(8). HKSARG has provided information for the cost of production in Hong Kong without any backup documentary evidence. From the information provided the Authority has relied upon the prices in respect of utility. Price of major raw material, Polycarbonate has been taken from World Trade Atlas as average export price from Hong Kong. Prices of other raw materials, consumption norms for the raw materials , utilities and conversion cost have been taken as that of the domestic industry in India. To this financial cost and profit @5% each has been added to construct the normal value. By this methodology, the normal value for Hong Kong has been determined as below.

Value in US\$ per'000 Pcs.

Normal value	Jewel Case	Cake box	BOS
DVD-R		***	***
DVD-RW	***		

47. In the preliminary findings, it was intimated that in case HKSARG provide information/data on the actual manufacturer, the same would be relied upon after its verification, however, no such information has been provided, therefore, the normal value as determined above has been relied upon in this findings.

### F.3. Normal Value for non co-operating exporters from Chinese Taipei.

48. No exporters from **Chinese Taipei** has responded to the Initiation Notification and provided any information about normal value . In absence of the co-operation from exporters the Authority has constructed normal value on the basis of facts available as per Rule-6(8). For this purpose the price of major raw material , Polycarbonate has been taken from World Trade Atlas as average export price from **Chinese Taipei**. Prices of utility has been taken as prevailing in **Chinese Taipei** . Prices of other raw materials, consumption norms for the raw materials and conversion cost have been taken as that of the domestic industry in India. To this financial cost and profit @5% each has been added to construct the normal value. By this methodology, the normal value for **Chinese Taipei** has been determined as below.

Value in US\$ per'000 Pcs.

Normal value	Jewel Case	Cake box	BOS
DVD-R	***	***	***
DVD-RW	***	***	***

### Export price

### F.4. Export price for non co-operating exporters from China PR

49. As no exporters from China PR has co-operated, therefore the export price has been determined on the basis of facts available as per Rule-6(8). For this purpose, the Authority has relied upon the transaction wise imports data procured from DGCI&S. It has been observed that the DVD R and DVD RW have been imported in different packages. The weighted average export price has been determined separately for different packing by segregating data of the DVD R and DVD RW.

50. To determine ex-factory export price, expenses on account of Ocean freight, Marine insurance, port expenses(@ 0.25%) and inland freight ( @0.25%) have been adjusted . For ocean freight and marine insurance the information provided by the co-operating importer has been relied upon. By this methodology the ex-factory export price has been determined as under.

Value in US\$ per'000 Pcs.

<b>Ex-factory export price</b>	<b>Cake box</b>	<b>BOS</b>
DVD-R	***	***
DVD-RW		***

**F.5. Export price for non co-operating exporters from Hong Kong.**

51. As no exporters from Hong Kong has co-operated , therefore the export price has been determined on the basis of facts available as per Rule-6(8). For this purpose, the Authority has relied upon the transaction wise imports data procured from DGCI&S. It has been observed that the DVD R and DVD RW have been imported in different packages. The weighted average export price has been determined separately for different packing by segregating data of the DVD R and DVD RW.

52. To determine ex factory export price, expenses on account of Ocean freight, Marine insurance, port expenses (@ 0.25%) and inland freight (@0.1%) have been adjusted . For ocean freight and marine insurance the information provided by the co-operating importer has been relied upon. By this methodology the ex-factory export price has been determined as under.

Value in US\$ per'000 Pcs.

<b>Ex-factory export price</b>	<b>Jewel case</b>	<b>Cake box</b>	<b>BOS</b>
DVD-R		***	***
DVD-RW	***		

**F.6. Export price for non co-operating exporters from Chinese Taipei.**

53. As no exporters from **Chinese Taipei** has co-operated , therefore the export price has been determined on the basis of facts available as per Rule-6(8). For this purpose, the Authority has relied upon the transaction wise imports data procured from DGCI&S. It has been observed that the DVD R and DVD RW have been imported in different packages . The weighted average export price has been determined separately for different packing by segregating data of the DVD R and DVD RW.

54. To determine ex factory export price, expenses on account of Ocean freight, Marine insurance, port expenses (@ 0.25%) and inland freight (@0.1%) have been adjusted . For ocean freight and marine insurance the information provided by the co-operating importer has been relied upon. By this methodology the ex-factory export price has been determined as under.

Value in US\$ per'000 Pcs.

<b>Ex-factory export price</b>	<b>Jewel case</b>	<b>Cake box</b>	<b>BOS</b>
DVD-R	***	***	***
DVD-RW	***	***	***

**F.7. Dumping Margin**

55. On the basis of normal values and export prices as determined above, the dumping margins are determined as per table below: -

**China PR**

	<b>DVD R</b>		<b>DVD RW</b>	<b>Weighted average</b>	<b>Value in US\$ per'000 Pcs.</b>
	<b>Cake box</b>	<b>BOS</b>	<b>BOS</b>		
	Normal Value	***	***		
Export Price	***	***	***	***	
Dumping Margin	***	***	***	***	
Dumping Margin(%)	***	***	***	64.72	

**Hong Kong**

	<b>DVD R</b>		<b>DVD RW</b>	<b>Weighted average</b>	<b>Value in US\$ per'000 Pcs.</b>
	<b>Cake box</b>	<b>BOS</b>	<b>Jewel Case</b>		
	Normal Value	***	***		
Export Price	***	***	***	***	
Dumping Margin	***	***	***	***	
Dumping Margin(%)	***	***	***	62.96	

**Chinese Taipei**

V  
a  
l  
u  
e  
  
i  
n  
  
U  
S  
\$  
  
p  
e  
r  
”  
0  
0  
0  
  
P  
c  
s  
.

	DVD R			DVD RW			Weighted average
	Jewel Case	Cake box	BOS	Jewel Case	Cake box	BOS	
Normal Value	***	***	***	***	***	***	***
Export Price	***	***	***	***	***	***	***
Dumping Margin	***	***	***	***	***	***	***
Dumping Margin(%)	***	***	***	***	***	***	63.50

56. The dumping margins so determined are significant and above *de minimis* level.

**G. METHODOLOGY FOR INJURY DETERMINATION AND EXAMINATION OF CAUSAL LINKS**

**Injury Determination**

57. For the purpose of injury analysis the entire imports from the subject countries have been treated as dumped imports.

#### **G.1. Submissions by the Domestic Industry**

58. The domestic industry has raised the following arguments:

- (a) Imports of the product under consideration have significantly increased in absolute terms and in relation to production in India.
- (b) The average imports per month increased significantly even within the proposed period of investigation.
- (c) The imports are significantly undercutting the prices of domestic industry. Resultantly, imports were depressing the prices of the domestic industry in the market.
- (d) Even though capacity, production and sales increased over the period, the increase in these parameters was a result of significant increase in demand anticipated earlier for the product. However, the domestic industry lost market share.
- (e) Profitability of the domestic industry has significantly declined over the period because of significant price pressure created by the imports.
- (f) Return on investment and cash flow have also deteriorated significantly over the period. The domestic industry is faced with negative return.
- (g) Inventories with the domestic industry have increased significantly.
- (h) Injury to the domestic industry is being caused by the dumped imports considering that the only reason for reduction in selling price is the decline in import prices.

#### **G.2. Submissions by other interested parties**

59. Submissions by other interested parties on injury have been recorded in relevant paras from 13 to 40 of the findings.

#### **G.3. Examination by the Authority**

60. The Authority has noted the views expressed by the domestic industry and other interested parties and noted that the injury analysis of the domestic industry is done on the basis of actual verified data.

#### **G.4. Cumulative assessment of injury**

61. The Annexure II (iii) of the Anti Dumping Rules requires that where 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 volume of imports from individual countries are above de minimis:
- (b) The dumping margin against individual countries is above 2%; and
- (c) 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

62. The Authority notes that the dumped imports are entering the Indian market simultaneously from several countries, including the subject countries. Therefore, the issue of cumulative assessment of the injury caused to the domestic industry due to dumped imports from these sources has been examined with respect to the above parameters and it was observed that:

- i) The margins of dumping of individual products from each of the subject countries are more than the de minimis limit;
- ii) The volume of imports of individual products from each of the subject countries is more than the de minimis;
- iii) Imports from the subject countries are significantly undercutting the prices of the domestic industry in the market;

63. In view of the above, the Authority propose that cumulative assessment of injury is appropriate in this case as the exports of individual products from the subject countries are directly competing amongst themselves as well as with the like goods offered by the domestic industry in the Indian market.

#### **G.5. Examination of Injury and Causal Link**

64. Rule 11 of Antidumping Rules read with Annexure –II provides that an injury determination shall involve examination of factors that may indicate injury to the domestic industry, “... taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles...” In considering the effect the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article 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.

65. For the examination of the impact of the dumped imports on the domestic industry in India, indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, stock, profitability, net sales realization, the magnitude and margin of dumping, etc. have been considered in accordance with Annexure II of the rules supra.

66. All economic parameters affecting the Domestic Industry as indicated above such as production, capacity utilization, sales volume etc. have been examined as under.

#### **G.6 Volume Effects of Dumped Imports: Import volumes and market shares**

##### **i) Import Volumes**

67. DVD is specifically importable under Customs Tariff Head 8523.40.80. The transaction-wise data of imports from Impex Statistics as provided by the applicant and DGCI&S as procured by the Authority, shows that the imports have been made under different custom tariff heads. Data from DGCI&S have been relied upon for analysis.

68. With regard to the volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India.

69. For the purpose of injury analysis the Authority has relied on transaction wise import data procured from DGCI&S. At the time of initiation the data provided by the applicant procured from Impex Statistics was relied upon . On receipt of data from DGCI&S it was observed that the imports were significantly higher than that was reported in the Impex Statistics. Therefore for the purpose of this investigation and injury analysis data procured from DGCI&S has been relied upon. From the data it has been observed that imports of DVD R constitutes bulk of imports. It has also been observed that imports were made in various packing i.e. Jewel case, Cake box and BOS . However, main imports were in pack of BOS.

70. Volume of imports of the subject goods from the subject countries have been analysed as under:-

ii) Import Volumes and share of subject country

	Units	2003-04	2004-05	2005-06	POI	POI Annualised
<b>Imports</b>						
China PR	Lac.Pcs	1.30	9.28	150.94	254.62	203.69
Hong Kong	Lac.Pcs	-	19.22	33.89	80.97	64.77
Taiwan	Lac.Pcs	47.97	100.32	224.77	211.41	169.13
Other countries	Lac.Pcs	1.60	6.93	26.14	138.19	110.55
Subject Countries	Lac.Pcs	49.27	128.82	409.60	546.99	437.59
<b>Trend</b>	<b>Indexed</b>	<b>100</b>	<b>261</b>	<b>831</b>	<b>888</b>	<b>888</b>
Total Imports	Lac.Pcs	50.88	135.76	435.74	685.18	548.15
<b>Trend</b>	<b>Indexed</b>	<b>100</b>	<b>267</b>	<b>856</b>	<b>1,077</b>	<b>1,077</b>
<b>Market Share</b>						
China PR	%	2.56	6.84	34.64	37.16	37.16
Hong Kong	%	-	14.16	7.78	11.82	11.82
Taiwan	%	94.29	73.90	51.58	30.85	30.85
Other countries	%	3.15	5.11	6.00	20.17	20.17
Subject Countries	%	96.85	94.89	94.00	79.83	79.83

Imports in relation to

Production	%	7.13	5.11	6.37	4.52	4.52
Consumption	%	95.24	70.81	61.35	30.91	30.91

**71. The data shows imports from subject countries increased from 49.27 lacs in 2003-04 to 437.59 lacs during POI(annualised) indicating sharp increase in imports during POI as compared to base year. Import data shows that imports mainly constitutes DVD-R. Imports of DVD-RW was in the range of 5% of the total imports. It has also been observed that imports of DVD was made in different packed forms. However, mainly imports constitutes DVD in bulk package which was 87% of the total imports. The other packages were in Jewel pack and cake box. It has been observed that imports have increased in absolute term, however, in relation to production and consumption it has declined from base year to POI.**

#### Demand, Output and Market shares

##### iii) Growth In Demand

	Unit	2003-04	2004-05	2005-06	POI	POI Annualised
Domestic Industry	Lac Pcs	0.86	46.16	212.70	1,061.65	849.32
Total Imports	Lac Pcs	50.88	135.76	435.74	685.18	548.15
Other Indian producer	Lac Pcs	-	-	19.17	23.06	18.45
<b>Total Demand</b>	Lac Pcs	51.74	181.92	667.61	1,769.89	1,415.92

**72. Demand of subject goods has been determined by addition of domestic sales of Indian industry and imports from all countries. From the data, trend indicates that demand for the subject goods had been growing from base year to POI. The product itself is of a recent origin hence the demand for the product is increasing rapidly.**

##### iv) Production of the Domestic Industry

		U	2003-04	2004-05	2005-06	POI	POI Annualised
Capacity	Lac.Pcs		1,400	4,800	9,885	15,523	12,418.34
Trend	Indexed		100	343	706	887	887
Production	Lac.Pcs		691	2,521	6,435	12,097	9,677.76

Trend	Indexed	100	365	931	1,400	1,400
Capacity Utilisation	%	49.38	52.51	65.10	77.93	77.93
Trend	Indexed	100	106	132	158	158

**73. The above data shows that capacity, production and capacity utilisation of the domestic industry has increased from base year to POI.**

**v) Sales of Domestic Industry**

	Unit	2003-04	2004-05	2005-06	POI	POI Annualised
Domestic Industry	Lac.Pcs.	0.86	46.16	212.70	1,061.65	849.32
Export Sales	Lac.Pcs.	501.40	2,022.00	5,613.17	9,805.99	7,844.79

**74. The data on sales indicates that the domestic industry sold 0.86 Lac.Pcs of subject goods during 2003-04 and the same increased to 849.32 Lac.Pcs during annualised POI. The sale of domestic industry has been increasing throughout the injury period.**

**vi) Demand and Market Share**

	Unit	2003-04	2004-05	2005-06	POI	POI Annualised
Assessed Demand	Lac.Pcs	51.74	181.92	667.61	1,769.89	1,415.92
Trend	Indexed	<b>100</b>	<b>352</b>	<b>1,290</b>	<b>2,737</b>	<b>2,737</b>
Imports from Subject Countries	Lac.Pcs	49.27	128.82	409.60	546.99	437.59
Imports from Other Countries	Lac.Pcs	1.60	6.93	26.14	138.19	110.55
Sales of Domestic Industry	Lac.Pcs	0.86	46.16	212.70	1,061.65	849.32
Sales of other Indian producers	Lac.Pcs	-	-	19.17	23.06	18.45
Market Share in Demand						
Imports from Subject Countries	%	95.24	70.81	61.35	30.91	30.91
Imports from Other Countries	%	3.10	3.81	3.92	7.81	7.81

Sales of Domestic Industry	%	1.67	25.37	31.86	59.98	59.98
Sales of other Indian producers	%	-	-	2.87	1.30	1.30
Selling price of the domestic industry	Rs/PC	***	***	***	***	***

**75. The demand of subject goods has shown rising trend. From 51.74 lac pieces in the base year, the demand increased to 1416 lac pieces in POI (annualized). During the same period, market share of the domestic industry increased from 1.67% to 59.98%. Whereas the share of the subject countries declined from 95% to 31%. Further, the market share of the imports has declined, whereas that of domestic industry has increased. It has been observed that from base year to POI the selling price of the domestic industry declined steeply.**

#### **G.7. Price Effect of the Dumped imports from subject countries on the Domestic Industry**

##### **(i) Evaluation of price over period under consideration er period under consideration**

<b>Export Price</b>	<b>Unit</b>	<b>2003-04</b>	<b>2004-05</b>	<b>2005-06</b>	<b>POI</b>
Subject Countries	Rs./Pc	5.24	4.70	3.94	4.89
Trend	Indexed	100	90	75	93
Selling Price	Rs./Pc	***	***	***	***
Trend	Indexed	100	33	19	17
Polycarbonate prices *	Rs/KG	79.08	87.53	128.55	127.09
Raw materials cost	Rs./Pc	***	***	***	***
Trend	Indexed	100	85	116	90

**\*Source:- World trade atlas data**

**76. The data on export price shows that prices from subject countries have declined from base year to POI. It has been observed from the data in the World Trade Atlas that during the same period, price of the major raw material i.e. polycarbonate has increased in the subject countries. Even if it is considered that the prices in 2003-04 were quite high because of introductory phase, it is found that the prices declined steeply even between 2004-05 and 2005-06. Further, even between investigation period and preceding year, the prices declined significantly.**

##### **(ii) Price undercutting and underselling effects**

<b>Unit</b>	<b>2003-04</b>	<b>2004-05</b>	<b>2005-06</b>	<b>POI</b>
-------------	----------------	----------------	----------------	------------

Selling price-DI

DVD-R	Rs/ Pcs	***	***	***	***
DVD-RW	Rs/ Pcs	***	***	***	***
DVD(R & RW)	Rs/ Pcs	***	***	***	***
Trend	<b>Indexed</b>	100	33	19	17

Landed value

DVD-R	Rs/ Pcs	5.70	4.44	3.94	4.80
DVD-RW	Rs/ Pcs	8.42	8.12	4.21	6.52
DVD(R & RW)	Rs/ Pcs	5.71	4.89	3.94	4.89
Trend	<b>Indexed</b>	100	86	69	86

Price Undercutting

DVD-R	Rs/ Pcs	***	***	***	***
DVD-RW	Rs/ Pcs	***	***	***	***
DVD(R & RW)	Rs/ Pcs	***	***	***	***

Price Undercutting

DVD-R	%	***	***	***	***
DVD-RW	%	***	***	***	***
DVD(R & RW)	%	***	***	***	***

NIP	Rs/ Pcs.				***
Price underselling	Rs/ Pcs.				***
Cost of production	Rs/ Pcs.	***	***	***	***

**77. 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 weighted average cost of production, weighted average 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.**

78. In determining the weighted net sales realization of the domestic industry, the rebates, discounts and commissions offered by the domestic industry and the central excise duty paid have been rebated.

79. The trend of selling price indicates that it declined to 33 in 2004-05, and 17 in POI as compared to base year (indexed 100).

80. Price undercutting has been determined by comparing the weighted average landed value of dumped imports from the subject countries over the entire period of investigation with the weighted average net sales realization of the domestic industry for the same period. For this purpose, imports have been segregated in packed form and bulk form. The landed value of imports has been calculated by adding (for the relevant years) 1% handling charge and applicable basic customs duty as applicable to the value reported in the DGCI&S data of import prices from the subject countries. The weighted average undercutting from subject countries during POI was in the range of 40-50% for packed product and 15-25% for imports in BOC.

81. For the purpose of price underselling determination the weighted average landed prices of imports from subject countries have been compared with the non-injurious price of the domestic industry determined for the POI. The weighted average underselling was in the range of 50-60% during POI.

**(iii) Price suppression and depression effects of the dumped imports**

82. The price suppression effect of the dumped imports has also been examined with reference to the cost of production, net sales realization and the landed values from the subject countries.

83. The trend of cost of production shows that weighted average cost of sale declined by Rs.8.27/pc over injury period, whereas selling price declined by Rs.35.56/pc during the same period indicating that the domestic industry was under tremendous pressure to reduce the prices because of dumped imports.

**G.8. Examination of other Injury Parameters**

84. After having examined the effect of dumped imports on the volumes and prices of the domestic industry and injury indicators like volume and value of imports, capacity, output, capacity utilization and sales of the domestic industry as well as demand pattern with market shares of various segments in the earlier section, other economic parameters which could indicate existence of injury to the domestic industry have been analyzed hereunder as follows:

**i) Profits and actual and potential effects on the cash flow**

	Unit	2003-04	2004-05	2005-06	POI (Annualised)
Sales (NSR)	Rs./Pcs	***	***	***	***
Trend	Indexed	100	33	19	17
Cost of Sales	Rs./Pcs	***	***	***	***

Trend	Indexed	100	60	54	50
Profit before tax	Rs./Pcs	***	***	***	***
Trend	Indexed	100	17	(3)	(4)
Profits before interest (PBIT)	Rs./lacs	***	***	***	***
Trend	Indexed	100	942	(189)	(2,100)
Contribution	Rs./Pcs	***	***	***	***
Trend	Indexed	100	33	19	17
Total Profit before tax	Rs./lacs	***	***	***	***
Total Profit before interest (PBIT)	Rs./lacs	***	***	***	***
Cash profit	Rs./pc	***	***	***	***

**85. The data shows that cost of sales of the domestic industry declined significantly over the injury period. It may not be appropriate to consider 2003-04 for comparison as cost was unusually high because it was first production year of the domestic industry. From 2004-05 to POI, the cost of sales declined by Rs.1.58/pc due to declining conversion cost and of raw materials other than polycarbonate. During the same period, the selling price declined by more than Rs.7/pc indicating disproportionate reduction in selling price as compared to cost of sales. The profit before tax declined on consistent basis throughout the injury period. While the domestic industry was earning profits till 2004-05, it suffered losses thereafter. Further, loss before tax for the quantities sold increased significantly in the investigation period.**

#### ii) Return on Capital Employed

	Unit	2003-04	2004-05	2005-06	POI	POI Annualised
Capital Employed (NFA)	Rs.Lacs	***	***	***	***	***
PBIT	Rs.Lacs	***	***	***	***	***
Trend	Indexed	100	942	(189)	(1,680)	(1,680)
Return on capital employed	%	***	***	***	***	***

Trend	Indexed	100	59	(7)	(19)	(19)
-------	---------	-----	----	-----	------	------

**86. Capital employed has been calculated per unit of production and then the same is multiplied in to domestic sales volume in order to arrive at the capital employed for domestic sales. The data on return on capital employed shows that return declined very steeply over the injury period. Further, whereas the industry was having positive return till 2004-05, the domestic industry is suffering negative return from 2005-06.**

**iii) Employment**

	Unit	2003-04	2004-05	2005-06	POI
Employees	No	***	***	***	***
Trend	Indexed	100	118	127	159

**87. The manufacturing facility of the domestic industry manufacture both subject goods and other products not covered in this investigation. The number of employees has been taken for plant as a whole. The above data shows that number of employees has increased by 59% during POI as compared to base year.**

**iv) Productivity**

**88. The manufacturing facility is common for product under consideration and other products and therefore, it is considered that productivity per employee would not appropriately reflect the position with regard to injury to the domestic industry.**

**v) Inventories**

	Unit	2003-04	2004-05	2005-06	POI
Average Inventory	Lac Pcs	***	***	***	***
Trend	Indexed	100	437	966	1,868

**89. The above data shows that the average inventory increased significantly over the years. However, in terms of number of days sales, the inventory declined significantly from base year to POI.**

**vi) Growth**

**90. The growth in demand shows positive trend from base year to POI on year-to-year basis. The growth in production and sales were positive. However, cost, selling price, profitability and return on investment shows negative trend.**

**vii) Investment**

91. The Authority notes that the domestic industry had infused fresh capital to increase the capacity for subject goods and other goods during the injury period.

**viii) Magnitude of Dumping**

92. Magnitude of dumping as an indicator of the extent to which the dumped imports can cause injury to the domestic industry shows that the dumping margins determined against the subject countries named, for the POI, are significant.

**ix) Factors affecting prices**

93. The Authority notes that the cost of sales declined during the injury period. From 2004-05 to POI, the cost of sales declined by Rs.1.58/pc. The landed value from subject countries during this period first declined in 2005-06, however, it increased during the POI reaching to the level of landed value as that was prevailing in 2004-05. The price undercutting during the period remained significant. With the declining selling price of the domestic industry, however, the undercutting declined from 2004-05 to POI. Significant price difference between the domestic and imported product resulted in decline in the selling price by the domestic industry. The domestic industry was forced to reduce selling prices continuously and such price declines continued even below the cost of production.

**G.9. Other Known factors and Causal Link**

94. The Authority has also examined the issue of causal link and other non-attribution factors as laid down in the Rules to segregate injury if any caused by other factors. In this regard the following indicative factors as laid down in the Rules have been examined.

**i) Volume and prices of imports from other sources**

95. During POI, imports from countries not under investigation constitute 20% of the total imports. The imports from some countries were also undercutting the selling price of the domestic industry. However, quantity of imports from those countries were *de minimis* except in respect of one country which had a share of 8.5% of the total imports. The Authority observed that imports from other countries undercutting the selling price of the domestic industry may also be contributing to the injury to the domestic industry.

**ii) Contraction in demand, change in pattern of consumption and Development of technology**

96. Because of development of further technology and new product in the market, the consumption pattern of the subject goods is undergoing change in favour of this product. In India the subject goods have shown robust growth during the injury period. The total demands of subject goods have shown robust growth during Period of Investigation as compared to the base year.

**iii) Trade restrictive practices of and competition between the foreign and domestic producers**

97. The Authority notes that there is no restricted practice prevalent in the industry which could be attributed to the injury to the domestic industry.

**iv) Export performance**

Particulars	Unit	2003-04	2004-05	2005-06	POI	POI Annualised
Export Sales	Lac Pcs.	501	2,022	5,613	9,806	7,845
Trend	Indexed	100	403	1,120	1,565	1,565

98. The Authority notes that the export volume of the domestic industry has been increasing. The Authority also notes that the analysis of financial performance for the injury period has been done for the domestic sales only.

**v) Productivity of the Domestic Industry**

99. Productivity of the domestic industry in terms of production per employee could not be assessed as the subject goods and other goods not under investigation are manufactured under the same manufacturing facility.

100. It has been stated that decline in the sale price of DVD product is a general global trend both in India and around the world, therefore, the Authority should check the true cause of price decline and not attribute the decline in selling price of the domestic industry, superficially to the dumped imports. The Authority has noted that the global decline in price of the DVD product may be one of the factors impacting the performance of the domestic industry.

101. No other factor, which could have possibly caused injury to the domestic industry, has come to the notice of the Authority.

**G.10. Causal Link**

102. The Authority notes that the price undercutting upto 2006-07 was too significant, forcing the domestic industry to reduce the prices. Even though the average import price increased in the investigation period, given the extent of existing price undercutting, the domestic industry was forced to reduce the prices further in order to bridge the gap between the domestic and imported product and sell higher volumes. The decline in the selling prices as a consequence of undercutting by the import prices lead to deterioration in the performance of the domestic industry in terms of profit/loss, return on investment and cash flow. Whereas the domestic industry was earning profits in 2003-04 and 2004-05 in spite of low volumes, the domestic industry was forced to a situation of financial losses in 2005-06, which increased further in the investigation period. Thus, the decline in profitability, return on investment and cash flow was a consequence of dumping from subject countries.

103. On the issue raised by HKSARG that the domestic industry has an overwhelming share in the domestic market and export price might have been in response to price set by the domestic industry, It has been noted that the domestic

industry with the commanding share would not like to lower the prices which adversely affect their financial performance. Apparently, the domestic industry has been compelled to reduce the prices in the market.

104. It has been argued that global decline in the price of the DVD product could be reason for decline in price of the domestic industry, in this regard, the Authority notes that this could be one of the factors which might have impacted the performance of the domestic industry, however, in absence of any cooperation from any of the exporters from the subject countries, the price undercutting as well as significant price underselling by imports and estimated dumping margin suggest that the performance of the domestic industry was adversely impacted by the dumped imports.

105. On the basis of the above examination it is concluded that the subject goods exported from the subject countries are at prices below their normal values, non injurious price of the domestic industry and the average net sales realization of the subject goods of the domestic industry, and have caused injury to the domestic industry indicating causal links between dumping of subject goods and injury to the domestic industry.

#### **H. Conclusions**

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

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

#### **I. Indian industry's interest & other issues**

107. 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 countries in any way, and, therefore, would not affect the availability of the products to the consumers.

#### **J. Recommendations**

108. In view of the above, the Authority considers it necessary and recommends definitive anti-dumping duty on imports of subject goods from the subject countries in the form and manner described hereunder

109. 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. Accordingly, Definitive antidumping duty equal to the amount indicated in Column-8 of the table below is recommended 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 the subject countries.

## Duty Table

S	Tariff	Description	Country of Origin	Country of Export	Producer	Exporter	Amount	Unit of Measurement	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
		Digital Versatile Disc Recordable							
1	8523	(See note below)	China PR	China PR	Any	Any	68.11	Per 1000 pieces	USD
2	Do	Do	China PR	Any country other than China PR	Any	Any	68.11	-do-	-do-
3	Do	Do	Any country other than subject countries	China PR	Any	Any	68.11	-do-	-do-
4	Do	Do	Hong Kong	Hong Kong	Any	Any	66.72	-do-	-do-
5	Do	Do	Hong Kong	Any country other than Hong Kong	Any	Any	66.72	-do-	-do-
6	Do	Do	Any country other than subject countries	Hong Kong	Any	Any	66.72	-do-	-do-
7	Do	Do	Chinese Taipei	Chinese Taipei	Any	Any	65.63	-do-	-do-
8	Do	Do	Chinese Taipei	Any country other than Chinese Taipei	Any	Any	65.63	-do-	-do-
9	Do	Do	Any country other than subject countries	Taiwan	Any	Any	65.63	-do-	-do-

*Note:- The product under consideration in the present findings is Digital Versatile Disc Recordable of all kinds. Such product may include DVD-R, DVD+R, DVD-RW and DVD+RW.*

**110. Subject to the above, the Authority confirms the preliminary findings dated 16th June, 2008, however duty recommended in para 109 above would be applicable from the date of imposition of provisional anti dumping duty as per Section 9A(2) of the Custom Tariff Act 1975.**

**111. An appeal against the findings after its acceptance by the Central Government shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act, 1975 as amended in 1995 and Customs Tariff Rules, 1995.**

