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No 15/4/2011-DGAD
Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Anti Dumping & Allied Duties

Date: 3rd October 2012

Subject: Sunset Review of Anti dumping duty imposed on Compact Disk Recordable (CDR) in India from China PR, Hong Kong, Singapore and Chinese Taipei – final finding

A. BACKGROUND

1. WHEREAS, having regard to above Rules, the Designated Authority (hereinafter referred to as Authority) initiated an antidumping investigation on 4th April, 2006 into alleged dumping of Compact Discs-Recordable CD-Rs originating in or exported from China PR, Hong Kong, Singapore and Chinese Taipei and provisional antidumping duty was imposed on imports of Compact Discs-Recordable from China PR Hong Kong Singapore and Chinese Taipei vide customs notification no. 105/2006-CUS dated 6th October, 2006 on the basis of the preliminary findings of the Authority dated 28th August 2006. The final findings were notified vide notification dated 2nd April 2007 and the Department of Revenue imposed definitive anti dumping duties on the subject goods from subject country vide notification no. 78/2007-CUS dated 29th June, 2007.
2. And whereas, the Designated Authority, in terms of Section 9A(5) of the Act received a substantiated application from Storage Media Products Manufacturers & Marketers Welfare Association on behalf of the producers of Compact Disk recordable requesting for review, enhancement and continuation of the antidumping duties levied on the subject goods on the grounds that cessation of anti-dumping duty is likely to lead to continuation or recurrence of dumping and injury. The Designated Authority issued a public notice No. 15/4/2011-DGAD dated 4th October 2011, published in the Gazette of India, Extraordinary, initiating anti-dumping (Sunset Review) investigations, to examine whether the expiry of anti dumping duty would lead to continuation or recurrence of dumping or injury.
3. And whereas antidumping duty as notified vide Notification No. 78/2007-CUS dated 29th June, 2007 was extended up to 3rd October, 2012 vide notification No. 100/2011-Customs dated 14th November, 2011 in terms of Section 9(A)(5) of the Act.

4. The procedure described below has been followed with regard to the investigation:

- i) The Authority sent copies of initiation notification dated 4th October 2011 to the Embassy of the subject countries, known exporters/producers from the subject countries, known importers and other interested parties, as per the information available with it. Parties to this investigation were requested to file the questionnaires' responses and make their views known in writing within the prescribed time limit. Copies of the letter and questionnaires sent to the exporters/producers were also sent to the Embassy of the subject countries along with a list of known exporters / producers with a request to advise the exporters/producers from the subject countries to respond to the questionnaires within the prescribed time.
- ii) The Authority provided copies of the non-confidential version of the application to the known producers and/or exporters and the Embassy of the subject countries in accordance with Rules 6(3) supra. A copy of the non-confidential application was also made available for other interested parties, on request.
- iii) The Authority sent a questionnaire to elicit relevant information to the government of subject countries, including known exporters/producers in accordance with the Rule 6(4). However none of the exporters/producers from the subject countries filed response to the questionnaire.
- iv) Questionnaire was sent to known importers or user for providing necessary information in accordance with Rule 6(4). The Authority provided opportunity to the industrial users of the product under consideration, to furnish information considered relevant to the investigation regarding dumping, injury and causality. However, none of the importers filed response to the questionnaire.
- v) 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 investigations. The data provided by the domestic industry was sourced from Impex.
- vi) The Authority held a public hearing on 6th March 2012 to provide an opportunity to the interested parties to present relevant information orally, which was attended by member of Storage Media Products Manufacturers & Marketers Welfare Association representing domestic industry. The parties attending the public hearing were advised to file written submissions of the information presented

- orally. Designated Authority has considered these written submissions received from interested parties. However, none of the producers/exporters or importers attended the public hearing and therefore has not submitted the written submissions. Arguments raised and information/evidence provided by the interested parties during the course of the investigation, to that extent the same are considered relevant to the present investigation, have been appropriately considered by the Authority.
- vii) Arguments raised and information/evidence provided by domestic industry during the course of the investigation, to that extent the same are supported with evidence and considered relevant to the present investigation, shall be appropriately considered by the Authority in the findings.
- viii) The Authority during the course of investigation satisfied itself as to the accuracy of the information supplied upon which these findings are based. For that purpose, the Authority conducted on-the-spot verification of the domestic industry to the extent considered relevant and necessary. Additional/supplementary details regarding injury were sought from the domestic industry, which were also received.
- ix) In accordance with Rule 16 of the Rules supra, the essential facts/basis considered for these findings were disclosed to known interested parties and comments received on the same have been considered in Final Findings. Following issuance of disclosure statement, the comments have been received only from the domestic industry which have been analysed under the appropriate headings in this subject findings.
- x) The Authority made available non-confidential version of the evidence presented by domestic industry through a public file maintained by the Authority and kept open for inspection by the interested parties as per Rule 6(7).
- xi) Cost investigations were conducted to work out optimum cost of production and cost to make and sell the subject goods in India on the basis of Generally Accepted Accounting Principles (GAAP) and the information furnished by the applicant so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.
- xii)**** represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules on merits.

- xiii) Investigation was carried out for the period starting from 1st April 2010 to 31st March 2011 (12 months) and has been referred to as the period of investigation (POI). The examination of trends in the context of injury analysis covered the periods 2007-08, 2008-09, 2009-10 & POI.
- xiv) Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigations, or has significantly impeded the investigation, the Authority has recorded findings on the basis of the facts available.
- xv) Information provided by interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has granted confidentiality, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non confidential version of the information filed on confidential basis.

PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE:

5. The product under consideration in the present investigation is Compact Discs-Recordable (referred to as CD-Rs or subject goods in the present investigation) originating in or exported from China PR, Hong Kong, Singapore and Chinese Taipei (referred to as subject countries in the present investigation).
6. CD-R is a polycarbonate disc containing a spiral groove on one side to guide the laser beam for writing and reading information. The disc is coated on the side with the spiral groove with a very thin layer of vegetable-based organic dye and subsequently with a thin, reflecting layer of silver, a silver alloy or gold. Finally, a protective coating of a photo-polymerizable lacquer is applied on top of the metal reflector and cured with UV-irradiation. Recording on such a disc can be done only once and therefore, the disc is said to be of the type 'WORM' (Write Once Read Many times). The disc is an optical storage medium for digital data or music.

Views of the domestic industry

7. Domestic industry has made following submissions:-
- (i) The present investigation is for the review, enhancement and continuance of anti dumping duty in force against dumping of Compact Discs-Recordable in the Indian market by the producers and/or exporters of China PR. Being a review investigation, product under consideration should be considered the same as has been in the original investigation.
- (ii) The product under consideration in this investigation is Compact Discs-Recordable (CD-Rs). CD-R is a polycarbonate disc containing a spiral groove on one side to guide the laser beam for writing and reading information. The disc is coated on the side with

the spiral groove with a very thin layer of vegetable-based organic dye and subsequently with a thin, reflecting layer of silver, a silver alloy or gold. Finally, a protective coating of a photo-polymerizable lacquer is applied on top of the metal reflector and cured with UV-irradiation. Recording on such a disc can be done only once and therefore, the disc is said to be of the type 'WORM' (Write Once Read Many times). The disc is an optical storage medium for digital data or music

- (iii) The domestic goods are like product to subjects goods exported/produced by exporters with no material difference between the two and being comparable in terms of physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification
- (iv) The goods produced by the domestic industry are like article within the meaning of anti dumping Rules.

Views of the Importers, Consumers, Exporters and Other Interested Parties

- 8. None of the importers, consumers, exporters and other interested parties has filed any comment or submissions with regard to product under consideration, like articles and scope of the present investigations

Examination by the Authority

- 9. The product under consideration in the present investigation is Compact Discs-Recordable (referred to as CD-Rs or subject goods in the present investigation) originating in or exported from China PR, Hong Kong, Singapore and Chinese Taipei (referred to as subject countries in the present investigation). The product under consideration is the same as considered in the original investigation.
- 10. Compact Discs-Recordable is classified under Chapter 85 of the Customs Tariff Act, 1975 under sub-headings No 8523. The customs classification is, however, indicative only and not binding on the scope of investigations.
- 11. In the initiation notification, the scope of the product under consideration was specified as follows –

5. As mentioned in the preliminary findings the product under consideration in this investigation is Compact Discs-Recordable (CD-Rs). CD-R is a polycarbonate disc containing a spiral groove on one side to guide the laser beam for writing and reading information. The disc is coated on the side with the spiral groove with a very thin layer of vegetable-based organic dye and subsequently with a thin, reflecting layer of silver, a silver alloy or gold. Finally, a protective coating of a photo-polymerizable lacquer is applied on top of the metal reflector and cured with UV-irradiation. Recording on such a disc can be done only once and therefore, the disc is said to be of the type 'WORM' (Write Once Read Many times). The disc is an optical storage medium for digital data or music.

12. Having regard to the evidence of record and initiation notification, the Authority considers it appropriate to keep the scope of the product under consideration to the same as was considered before.
13. In order to determine whether goods produced by the domestic industry can be considered like article to the goods produced and/or exported from the subject countries, it is noted that the issue has been examined by the Authority and no submissions has been received by the Authority, opposing previous determination of the Authority. The Authority, on the basis of the examination, holds that the material produced by the domestic industry is like article to the goods imported or produced in subject countries within the meaning of the Rules.

DOMESTIC INDUSTRY

Views of the domestic industry

14. The Domestic industry made following submissions regarding domestic industry.
- (i) The application has been filed by Storage Media Products Manufacturers & Marketers Welfare Association on behalf of the producers of Compact Disk recordable. One of its member companies M/s. Moser Baer India Ltd has provided relevant financial information
- (ii) There are seven other known producers of CD-R in India besides the petitioner who do not account for much of the total production and are neither opposing nor supporting the present petition. The petitioner is capable of producing all varieties of CD-R which are like product to imports and thereby accounts for 91.8% of the total production.

Views Of The Exporter, Importers, Consumers And Other Interested Parties

15. None of the other interested parties filed any submissions in this regard.

Examination By The Authority

16. According to the Rule 2 (b), “domestic industry” means the domestic producers as a whole engaged in the manufacture of the like article and any activity connected

therewith or those whose collective output of the said article constitutes a major proportion of the total domestic production of that article except when such producers are related to the exporters or importers of the alleged dumped article or are themselves importers thereof in such case the term 'domestic industry' may be construed as referring to the rest of the producers”

17. As per information available on record, production of the “petitioner company” accounts for 91.8% production of the subject goods in India, hence constituting a major proportion in Indian production. The Authority holds that M/s. Moser Baer India Ltd constitutes domestic industry within the meaning of the Rules

OTHER ISSUES

Views of the domestic industry

18. The Domestic industry has submitted as under:-

- (i) The petition was complete in all respect and adequate and accurate evidence was provided to the Authority post initiation.

- (ii) None of the exporters have responded to the questionnaire issued by the Authority. Exporters should therefore be considered non-cooperative as per Rule 6(8) and the Authority should proceed according to the best information available.

- (iii) In view of the existing Anti-dumping duty, the imports from subject countries have declined to low levels during POI. However the imports from Indonesia have increased during period of investigation. It is pertinent to note that the imports from Indonesia are from 'Pt.Dynatech Perkasa' which is a regional manufacturing facility of General Magnetics Limited in Indonesia. General Magnetics Limited is the company with a registered office in Singapore. The two companies are related. Thus, while company is at present exporting through Indonesia in view of the existing Anti-dumping duties, the company would export the product from Singapore in the event of cessation of Anti-dumping duties.

Views of the exporter, importers, consumers and other interested parties

19. None of the other interested parties filed any submissions in this regard.

Examination by the Authority:

20. The Designated has noted the submissions made by interested party and issues have been examined under appropriate headings in this disclosure statement in accordance with the Rules.

DETERMINATION OF CONTINUATION OF DUMPING AND DUMPING MARGIN

DUMPING MARGIN

Views of the domestic industry

21. The domestic industry has submitted as under:

- (i) Petitioner claims that China should be treated as non market economy for the purpose of determination of normal value. Further, there is no claim from a Chinese producer or exporter for market economy treatment. None of the Chinese exporters have filed questionnaire response, nor claimed market economy treatment. Such being the case, question of applying para-8 of Annexure-I and considering whether the Chinese companies are entitled for market economy treatment does not arise.
- (ii) In the original investigations, the Authority has not granted market economy treatment to any of the responding exporter from China PR.
- (iii) There are no imports of the product under consideration in the current POI. In a situation where there are no continued imports, the Authority shall come to a conclusion that there is no continued dumping. However, non existence of continued imports in POI does not imply a need for revocation of anti dumping duties. The same merely implies that the Authority shall determine whether there is likelihood of recurrence of dumping. Petitioner has referred to the practices of other countries as well where anti dumping duties have been extended despite no exports in POI.
- (iv) Likelihood of recurrence of dumping is established from the following :
 - a. Cessation of anti dumping duties is likely to lead to recurrence of dumping & intensified injury to the domestic industry. The entire purpose of the review investigation is not to see whether there is a need for imposition of anti-dumping duty but to see whether in the absence of such duty, dumping would increase and the domestic industry is likely to suffer.
 - b. Evidence of prices being offered by the suppliers from the subject countries or price list of the foreign producers show the landed price of imports shall be significantly below the normal value. Further, these are the list prices or price offers and aggressive negotiations can take place on these prices. The product is therefore likely to be reported at prices significantly below these prices.
 - c. The price at which DVDR is being imported in India from subject countries is the minimum price at which the producers in subject countries would export the product into Indian Market. Thus, in the absence of significant direct shipment to India, it would be appropriate to determine likelihood by considering the price at which DVDR has been exported to India. While DVDR price is normally above CDR price, even if the price difference is ignored, the import price of DVDR establishes significant likelihood of dumping in the event of cessation of present Anti-dumping duties. Further, should the imports be reported at these prices, the performance of the domestic industry would deteriorate further.
 - d. Imports of CDR in the most recent period have been reported at a price of Rs 3.41. This price is comparable or lower than the price offers earlier given by the petitioner. Further this price is clearly below the normal value in each of the

- subject countries. Given the price at which material is being at present exported from third countries, it is obvious that the subject foreign producers cannot get the better price in the Indian market. The exports from such countries are likely to be made at these prices. Should the exports from subject countries be made at these prices, the performance of the domestic industry would significantly deteriorate.
- e. In view of the existing anti-dumping duty, the imports from subject countries have declined. However the imports from Indonesia have increased during period of investigation. Imports from Indonesia are from 'Pt.Dynatech Perkasa' which is a regional manufacturing facility of General Magnetics Limited in Indonesia. General Magnetics Limited is the company with a registered office in Singapore. The two companies are related. Thus, while company is at present exporting through Indonesia in view of the existing anti-dumping duties, the company would export the product from Singapore in the event of cessation of anti-dumping duties.
 - f. Given the facts that CDR and DVD- R manufacturing facilities are interchangeable, use similar technologies, involves use of same basic raw materials, manufacturers can make simple modifications to their existing CDR production line, in order to use it for production of DVD- R. Therefore, capacities of CDR and DVD-R should be seen interchangeably, for assessing likelihood of dumping and injury. The manufactures of CDR and DVD-R in the subject countries are mostly same which further supports the fact that in the event of revocation of duties, these manufacturers would resort to dumping of CDR as imports of CDR and DVD-R both are at present attracting anti-dumping duty.
 - g. The Authority has conducted four investigations relating to CDR & DVD-R. All the investigations have shown significant dumping of these products showing the very policy of dumping being adopted by these producers. In the event of cessation of anti-dumping duty, these exporters will get a greater opportunity to dump the product into India, which shall take away the market share of the domestic industry. The domestic industry is already suffering due to decline in demand of the product. The available market opportunity for the domestic industry, if taken away by the dumped imports, the Indian producers would be forced to suffer heavy financial losses or to reduce their operations.
 - h. Producers in subject countries maintain huge capacities to produce subject goods. Record evidences clearly show that there exist excess capacities with the subject countries' producers. In case of revocation of anti dumping duty, the volume of subject goods' imports is bound to increase further.
 - i. Majority of the producers in the subject countries have to depend on exports of the product, given surplus capacities; which clearly gets established by the export orientation of the manufacturers in the subject countries. In the event of revocation of duty, these exporters are likely to increase their exports to India at dumped prices.
 - j. If the trend of imports of product under consideration is analyzed, it will clearly show that there has been a consistent practice of dumping by different countries in the past. If the anti-dumping duty is imposed on one set of countries, the dumping started from other set of countries. This shift in imports clearly shows that the global producers are faced with surplus capacities. In the event of cessation of anti-dumping duty against subject countries the dumped imports are likely to enter the Indian market at a significant rate causing injury to the domestic industry.
 - k. The Indian market for the product under consideration is highly price sensitive. The consumers switch their source if the price difference is found significant. Such

being the case, availability of such low priced imports from subject countries in the market would definitely lead to consumers switching over to the imports which shall cause adverse impact on the domestic industry.

- l. The present investigation requires determination of likelihood of dumping and injury involving prospective determination by consideration of past as well as recent data. As such the law does not provide any particular methodology or time frame for such futuristic prediction.
- m. There is a clear evidence of transshipment of subject goods from amongst subject countries goods at dumped price from Great Britain and Indonesia in which case revocation of duty is likely to cause injury.
- n. The price offer evidence provided by the petitioner shows the likely prices of the exporters from the subject countries and clearly show that these prices are far less than the domestic industry prices and would lead to severe price undercutting. Being the price sensitive nature of the product and seeing the trend of the prices being offered by the producers for CDR and DVDR, in all likelihood, the domestic industry would be forced to reduce its prices which will lead to huge losses.

Views of the other interested parties

22. None of exporter from subject country filed any response with regard to the present investigation.

Examination by the Authority

23. The Authority has noted arguments made by the domestic industry on the methodology for determination of dumping and likelihood thereof. The Authority notes that this being a sunset review investigation, the Authority is required to examine continuation and likelihood of continuation or recurrence of dumping in the event of withdrawal of duty.

Continuation or recurrence of dumping

24. The Authority sent copies of the questionnaire to all the known exporters for the purpose of determination of normal value in accordance with Section 9A(1)(c). No response has been received from any of the producer/exporters from subject countries and importers in India on dumping and dumping margin. The Authority, therefore, has no option but to proceed on the basis of best information available on record under Rule 6(8) of AD Rules for non-cooperative exporter which provides that:-

“In a case where an interested party refuses access to, or otherwise does not provide necessary information within a reasonable period, or significantly impedes the investigation, the designated authority may record its findings on the basis of the facts available to it and make such recommendations to the Central Government as it deems fit under such circumstances”.

NORMAL VALUE

25. Under section 9A (1) (c) normal value in relation to an article means:

- (i) The comparable price, in the ordinary course of trade, for the like article, when meant for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6), or
- (ii) when there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either
 - (a) comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country as determined in accordance with the rules made under sub-section (6); or
 - (b) the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6);

China PR

26. The Authority notes that none of the Chinese producers have cooperated in the present investigation. Para 7 of Annexure I of the AD Rules provides that

“In case of imports from non-market economy countries, normal value shall be determined on the basis of the price or constructed value in the market economy third country, or the price from such a third country to other countries, including India or where it is not possible, or on any other reasonable basis, including the price actually paid or payable in India for the like product, duly adjusted if necessary, to include a reasonable profit margin. An appropriate market economy third country shall be selected by the designated authority in a reasonable manner, keeping in view the level of development of the country concerned and the product in question, and due account shall be taken of any reliable information made available at the time of selection. Accounts shall be taken within time limits, where appropriate, of the investigation made in any similar matter in respect of any other market economy third country. The parties to the investigation shall be informed without any unreasonable delay the aforesaid selection of the market economy third country and shall be given a reasonable period of time to offer their comments.”

27. The applicant has claimed that normal value should be determined on the basis of the above provisions. The Authority invited comments from all interested parties in accordance with para 7 and 8 of Annexure I.

28. The Authority notes that China has been treated as a non-market economy country subject to rebuttal of the presumption by the exporting country or individual exporters in terms of the AD Rules. As per Paragraph 8 of Annexure I of the AD Rules, 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) of Paragraph 8 and establish the facts to the contrary. However,

none of exporters/producers of the subject goods in China have cooperated with the Authority nor provided any information and evidence as mentioned in sub-paragraph (3) of paragraph 8 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 labour, 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.

29. Since none of the Chinese exporters have submitted questionnaire responses including the market economy questionnaire responses and sought to rebut the non-market economy presumption, the Authority is unable to consider whether one or more Chinese producers could be granted market economy status in the present case. The Authority is therefore constrained to proceed with para-7 of Annexure-I for determination of normal value in case of China.

30. The Authority notes that normal value cannot be determined on the basis of price or constructed value in a market economy third country for the reason that the relevant information from a producer in that country is not available to the Authority.

31. In view of the above and in the absence of cooperation from Chinese producers, the Authority has considered it appropriate to determine normal value on “any other basis” and has constructed normal value in China on the basis of best estimates of cost of production.

32. The Authority has constructed normal value for the producers in China on the basis of cost of production in India by taking the imports price of the major raw material i.e. Polycarbonate from China PR, duly adjusted.

Hong Kong, Taiwan and Singapore

33. None of the exporters/producers from Hong Kong, Chinese Taipei and Singapore have provided any response or information on the normal value as per the prescribed questionnaire. 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 as per international prevailing prices. 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 Hong Kong, Chinese Taipei and Singapore has been determined.

EXPORT PRICE

34. Under section 9A (1) (b) export price means:

“export price”, in relation to an article, means the price of the article exported from the exporting country or territory and in cases where there is not export price or where the export price is unreliable because of association or a compensatory arrangement between the exporter and the importer or a third party, the export price may be constructed on the basis of the price at which the imported articles are first resold to an independent buyer or if the article is not resold to an independent buyer, or not resold in the condition as imported, on such reasonable basis as may be determined in accordance with the rules made under sub-section (6);

35. The Authority sent questionnaires to all known exporters/producers for the purpose of determination of export price. None of the exporters/producers from subject country filed any information. The Authority notes that there are no known imports of the product concerned from any of the subject countries during the POI. Therefore, actual export price and dumping margin in respect of imports of subject goods into India cannot be determined.

Continuation of Dumping and Dumping margin

36. Accordingly, it is determined that there is no continuation of dumping of the product in the Country during the POI.

Likelihood of recurrence of dumping – Submissions by Domestic Industry

37. The present investigation being a Sunset Review, the question of likelihood of dumping and injury to the domestic industry has been examined by the Designated Authority in terms of Section 9(A)(5) of the Customs Tariff Act, which states as under:-

(5)The Anti dumping duty imposed under this section shall, unless revoked either, case to have effect on the expiry of five years from the date of such imposition;

Provided that if the Central Government, in a review, is of the opinion that the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury, it may, from time to time, extend the period of such imposition for a further period of five years and such further period shall commence from the date of order of such extension;

Provided further that where a review initiated before the expiry of the aforesaid period of five years has not come to a conclusion before such expiry, the Anti dumping duty may continue to remain in force pending the outcome of such a review for a further period not exceeding one year.

38. In terms of relevant provisions, the following aspects need to be examined in a Sunset review investigation:

- a. Whether the dumping is continuing; and if so, whether it is likely to continue in the event of cessation of the anti-dumping duties;
 - b. In case where dumping did not continue, whether the dumping would recur in the event of cessation of the anti dumping duties;
39. The AD Rules do not prescribe any specific methodology to examine the likelihood of dumping in a Sunset review investigation. However, in case there is a significantly positive dumping margin in respect of exports of the subject goods during the POI; then it is likely that dumping would continue in case of cessation of anti-dumping duty in force, unless the facts state otherwise. However, in case there have been no exports of the subject goods during the POI; then other relevant factors are required to be examined, for instance evidence, if any, regarding likelihood of dumping.
40. The domestic industry has submitted that the requirement under sunset review is to examine whether expiry of anti dumping duty is likely to lead to recurrence of dumping to the domestic industry. Therefore, such factors brought to the notice of the Authority have been examined to ascertain if there is a likelihood of recurrence of dumping in the event of expiry of the duty.
41. For examining the likelihood of continuation or recurrence of dumping and injury in the absence of any imports of subject goods from subject countries during the POI, the Authority has examined the copies of the emails allegedly exchanged between the domestic industry and suppliers of subject goods in the countries which has been submitted by the domestic industry. The domestic industry has submitted that the price of subject goods quoted by these suppliers from subject countries to the domestic industry in their emails should be taken into account for the purpose of determining the likelihood of dumping and injury margin in the event like in this case where there are no exports of subject goods from these countries. The domestic industry has on the basis of the emails constructed the export price and compared it with the constructed normal value as mentioned above to suggest that there is a likelihood of dumping of subject goods from subject countries in the event of revocation of anti dumping duties.
42. It has also been submitted by the domestic industry that the same set of producers of subject goods from subject countries are involved in production of CDR and DVDR. Further, both CDR and DVDR are attracting anti dumping duty. They have further submitted that the price at which the DVD have been imported into India should also be taken into account by the Authority keeping in view the facts that (i) the same set of producers are producing both CDR and DVD in the exporting countries, (ii) interchangeable production facilities of subject goods and DVD, (iii) DVDR imports are also subject to anti dumping duty, (iv) the information provided by the domestic industry with regard to CDR and DVDR shows that the CDR prices should be about 30% lower than DVD prices. It has also been submitted that none of the exporters/producers from any of the subject countries as well as any of the Indian importers/consumers have responded in this review investigation. Further, they have provided the following information with regard to capacity of subject goods in the

subject countries showing that the producers in subject countries are faced with significant capacities.

Name	Export Percentage
China	
Shantou S.E.Z. Wo Hing Radio & Vedeo Co. Ltd	98
Shabghai Suncd Electronics Technology Co. Ltd	21-30
Guangxing Trading Group Co. (Macao)	61-70
Guangzhou Banana Digital Company Limited	41-50
Hong Kong	
Topford Development Ltd	91-100
Radiance Enterprise Development Ltd	31-40
Taiwan	
Mintech Technology Co., Ltd.	91-100
Vanprasth Corporation.	91-100
El Mejor Technology Co., Ltd.	71-80
Melody Technology Corp.	61-70
Singapore	
Synergylab Pte Ltd	90-100

43. It has further been submitted by the domestic industry that imports are being reported from Indonesia who is apparently a producer in Indonesia who is related to the producer in Singapore attracting ADD at present. The domestic industry contended that should the anti dumping duty be revoked, the company is likely to shift back to Singapore. It has also been submitted that the investigation earlier conducted by the Authority established that the volume of imports from subject countries declined very significantly after imposition of anti dumping duty and the volume of imports increased from other countries not covered under anti dumping duty. Further, after imposition of anti dumping duty on these countries, the volume of imports from various sources has significantly declined. Thus, it has been contended that should the present anti dumping duty be withdrawn, imports of the product under consideration are likely to enter Indian market at prices significantly below the normal value.

Comments after the disclosure statement by domestic industry

44. In the comments to the disclosure statement, the domestic industry has reiterated their views with regard to their claims made earlier to the Authority that there is a likelihood of recurrence of dumping in the event of cessation of anti dumping duty of subject goods from subject countries. In particular, they have again raised the issues regarding the interchangeable nature of production of CDR and DVD-R and transshipment of the subject goods from other countries. They have added that in the event of non cooperation from exporters from subject countries, the Authority should base their information on the basis of best information available i.e information submitted by the domestic industry and the same can not be rejected. They have added few decisions of the other investigating Authorities and have stated that the Authority should decide the matter taking into account these decisions.

Comments after the disclosure statement by other interested parties

45. No comments have been received from any other interested parties after the issuance of disclosure statement.

Likelihood of recurrence of dumping – Examination by the Authority

46. With regard to copies of the emails allegedly exchanged between the domestic industry and suppliers of subject goods in the countries which has been submitted by the domestic industry, it is noted that these email exchanges date the time (mainly during July-August 2011) when the petition was submitted by the domestic industry to the Authority. Further, these emails have been exchanged largely as a reply of a query from the domestic industry who is a major producer of subject goods in India, and not a consumer or end user. Further these emails do not give any information about the likely price of export of subject goods to any consumer or retailers or end users in India. It is also noted that some of the price lists enclosed by the domestic industry with respect to price of subject good prevailing in subject countries do not indicate the these subject goods would be likely to be exported to India at these prices as there is no evidence on records to suggest that these subject goods are indeed being exported into other countries as well as at these prices. Thus, the information submitted by the domestic industry does not suggest likely import of subject goods from subject countries into India, and also it does not indicate any real likely prices at which these subject goods are likely to enter into India.
47. With regard to submissions by the domestic industry that the same set of producers of subject goods from subject countries are involved in production of CDR and DVDR and both CDR and DVDR are attracting anti dumping duty and the price at which the DVD have been imported into India should also be taken into account by the Authority keeping in view the facts that (i) the same set of producers are producing both CDR and DVD in the exporting countries, (ii) interchangeable production facilities of subject goods and DVD, it is noted that the subject investigations have been initiated on the CDR and not DVDR or other optical disc devices and the Authority would take into account the information concerning likely hood of imports of subject goods only during the POI and post POI period. On the issue of similar and interchangeable lines of manufacture of CDR and other optical disc like DVDR as a ground for indicating likely hood of dumping of CDR if the anti dumping duty is revoked, it is stated that interchangeability of two products in a production line cannot be a criteria for likelihood of importation into India. Further, DVDR and CDR are different optical discs and carry different costs and prices and just because some of the manufacturing processes are common for CDR and DVDR cannot be a ground for determining the likelihood of imports of CDR into India.
48. With regard to the issue that the producers in subject countries are faced with significant capacities and in the event of cessation of anti dumping duty on subject goods from subject countries, it is noted that the Authority has not come across any information with regard to excessive capacity of subject goods in the subject countries. Further, it is noted that the capacities mentioned by the domestic industry pertain to many products including CDR combined together and no information has been submitted with regard to the prices at which these subject goods have been

exported to other countries which are not attracting anti dumping duties. The Authority has also not come across any exports of subject goods from subject countries to third countries at dumped prices.

49. With regard to submissions made by the domestic industry that imports are being reported from Indonesia who is apparently a producer in Indonesia who is related to the producer in Singapore attracting ADD at present and the contention of the domestic industry that should the anti dumping duty be revoked, the company is likely to shift back to Singapore, it is noted by the Authority that there are hardly any imports from countries other than subject countries and countries already attracting the anti dumping duties. In view of this, there appears little likelihood of the subject goods coming into India and also at dumped prices with the cessation of anti dumping duty on subject goods from subject countries.

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Views of the Domestic Industry

50. The domestic industry has inter alia submitted as follows:

- a. The Domestic industry has suffered injury as established by decline in production and sales figures of domestic industry, negative trends in profit/loss, cash flow and return on capital employed and significant rise in inventories.
- b. The parameters of employment and wages do not show injury as the petitioner is a multi-product company. The overall growth parameters show a significant deterioration.
- c. Anti dumping duty has been continued in the past where there were similar situations of significant likely price undercutting or likely suppressing or depressing effect.
- d. Cessation of anti dumping duties is likely to lead to recurrence of dumping & intensified injury to the domestic industry. The entire purpose of the review investigation is not to see whether there is a need for imposition of anti-dumping duty but to see whether in the absence of such duty, dumping would increase and the domestic industry is likely to suffer.
- e. Evidence of prices being offered by the suppliers from the subject countries or price list of the foreign producers show the landed price of imports shall be significantly below the selling price of the domestic industry. Further, these are the list prices or price offers and aggressive negotiations can take place on these prices. The product is therefore likely to be reported at prices significantly below these prices.
- f. The price at which DVDR is being imported in India from subject countries is the minimum price at which the producers in subject countries would export the product into Indian Market. Thus, in the absence of significant direct shipment to India, it would be appropriate to determine likelihood by considering the price at which DVDR has been exported to India. While DVDR price is normally above CDR price, even if the price difference is ignored, the import price of DVDR establishes significant likelihood of dumping in the event of cessation of present Anti-dumping duties. Further, should the imports be reported at these prices, the performance of the domestic industry would deteriorate further.

- g. Imports of CDR in the most recent period have been reported at a price of Rs 3.41. This price is comparable or lower than the price offers earlier given by the petitioner. Further this price is clearly below the normal value in each of the subject countries. Given the price at which material is being at present exported from third countries, it is obvious that the subject foreign producers cannot get the better price in the Indian market. The exports from such countries are likely to be made at these prices. Should the exports from subject countries be made at these prices, the performance of the domestic industry would significantly deteriorate.
- h. In view of the existing anti-dumping duty, the imports from subject countries have declined. However the imports from Indonesia have increased during period of investigation. Imports from Indonesia are from 'Pt.Dynatech Perkasa' which is a regional manufacturing facility of General Magnetics Limited in Indonesia. General Magnetics Limited is the company with a registered office in Singapore. The two companies are related. Thus, while company is at present exporting through Indonesia in view of the existing anti-dumping duties, the company would export the product from Singapore in the event of cessation of anti-dumping duties.
- i. Given the facts that CDR and DVD- R manufacturing facilities are interchangeable, use similar technologies, involves use of same basic raw materials, manufacturers can make simple modifications to their existing CDR production line, in order to use it for production of DVD- R. Therefore, capacities of CDR and DVD-R should be seen interchangeably, for assessing likelihood of dumping and injury. The manufactures of CDR and DVD-R in the subject countries are mostly same which further supports the fact that in the event of revocation of duties, these manufacturers would resort to dumping of CDR as imports of CDR and DVD-R both are at present attracting anti-dumping duty.
- j. The Authority has conducted four investigations relating to CDR & DVD-R. All the investigations have shown significant dumping of these products showing the very policy of dumping being adopted by these producers. In the event of cessation of anti-dumping duty, these exporters will get a greater opportunity to dump the product into India, which shall take away the market share of the domestic industry. The domestic industry is already suffering due to decline in demand of the product. The available market opportunity for the domestic industry, if taken away by the dumped imports, the Indian producers would be forced to suffer heavy financial losses or to reduce their operations.
- k. Producers in subject countries maintain huge capacities to produce subject goods. Record evidences clearly show that there exist excess capacities with the subject countries' producers. In case of revocation of anti dumping duty, the volume of subject goods' imports is bound to increase further.
- l. Majority of the producers in the subject countries have to depend on exports of the product, given surplus capacities; which clearly gets established by the export orientation of the manufacturers in the subject countries. In the event of revocation of duty, these exporters are likely to increase their exports to India at dumped prices.
- m. If the trend of imports of product under consideration is analyzed, it will clearly show that there has been a consistent practice of dumping by different countries in the past. If the anti-dumping duty is imposed on one set of countries, the dumping started from other set of countries. This shift in imports clearly shows that the global producers are faced with surplus capacities. In the event of cessation of anti-dumping duty against subject countries the dumped imports are likely to enter the Indian market at a significant rate causing injury to the domestic industry.

- n. The Indian market for the product under consideration is highly price sensitive. The consumers switch their source if the price difference is found significant. Such being the case, availability of such low priced imports from subject countries in the market would definitely lead to consumers switching over to the imports which shall cause adverse impact on the domestic industry.
- o. The present investigation requires determination of likelihood of dumping and injury involving prospective determination by consideration of past as well as recent data. As such the law does not provide any particular methodology or time frame for such futuristic prediction.
- p. There is a clear evidence of transshipment of subject goods from amongst subject countries goods at dumped price from Great Britain and Indonesia in which case revocation of duty is likely to cause injury.
- q. The price offer evidence provided by the petitioner shows the likely prices of the exporters from the subject countries and clearly show that these prices are far less than the domestic industry prices and would lead to severe price undercutting. Being the price sensitive nature of the product and seeing the trend of the prices being offered by the producers for CDR and DVDR, in all likelihood, the domestic industry would be forced to reduce its prices which will lead to huge losses.

Views of the Exporters, Importers, Consumers and Other Interested Parties

51. None of the other interested parties have participated in the present investigations. There is no submission by other interested parties.

Examination of the Authority

52. The submissions made by the domestic industry during the course of investigations have been examined by the Designated Authority having regard to the relevant legal provisions. The Authority has examined the various submissions from the domestic industry under appropriate headings. The Authority notes that present investigation being a Sunset Review investigation, the performance of the domestic industry during the injury period and the likelihood of dumping and injury to the domestic industry in the event of the cessation of the anti dumping duty are required to be considered to determine whether expiry of anti dumping duty is likely to lead to continuation or recurrence of injury to the domestic industry. Further, the performance of the domestic industry in terms of cost and prices has been seen in the context of landed value of the subject goods from the subject countries during the injury period and the period of investigation. A detailed analysis has been carried out in respect of all the parameters listed under the law. These parameters are discussed herein under.

Assessment of demand

53. Domestic consumption/demand of the product under consideration has been determined considering sales volume of the domestic industry and other Indian producers and imports into India. The domestic industry had submitted transaction wise import information from secondary sources. During the course of investigation, transaction wise information on imports was sought from DGCI&S, which was received and has been examined. The Authority has also examined the transaction-

wise import data provided by the petitioner from IMPEX Statistics Services. It appears that a significant number of transactions reported in the IMPEX data are not reported in DGCI&S data. The transaction-wise data reported in the IMPEX Statistics data has been relied upon to determine the volume and value of imports from various sources for the purpose of present sunset review. Demand so assessed is as follows –

Particulars	UOM	2007-08	2008-09	2009-10	2010-11
Sales of Domestic Industry	Lac Pcs	4,906	4,902	4,257	2,626
Sales of other Indian Producers	Lac Pcs	2,340	3,000	2,600	1,150
Imports from subject countries	Lac Pcs	0.8	0.17	2.39	-
Imports from Countries attracting ADD	Lac Pcs	307	13	17	3
Import-Other Countries	Lac Pcs	39	11	3	18
Total Demand	Lac Pcs	7,593	7,926	6,880	3,797
Trend	Indexed	100	104	91	50

54. It is seen that demand of the product in the country has shown a significant decline. It is also noted that sales of the domestic industry and other domestic producers have also declined significantly during the injury period.

Volume of Dumped Imports from subject imports

55. With regard to volume of the dumped imports, it has been examined whether there has been a significant increase in dumped imports either in absolute terms or relative to production or consumption in India. Annexure II (ii) of the anti dumping rules provides as under:

“While examining the volume of dumped imports, the said authority shall consider whether there has been significant increase in the dumped imports either in absolute terms or relative in production or consumption in India”

56. Imports of the product under consideration from subject countries and other countries in absolute terms and in relation to production and consumption were as follows –

Particular	UOM	2007-08	2008-09	2009-10	2010-11
Imports					
China	Lac Pcs	0.80	0.11	2.33	-
Hong Kong	Lac Pcs	-	0.00	0.02	-
Singapore	Lac Pcs	-	0.06	-	-
Taiwan	Lac Pcs	-	-	0.04	-

Subject Countries	Lac Pcs	0.80	0.17	2.39	-
Country Attracting Duties	Lac Pcs	306.91	12.86	16.96	2.52
Other Countries	Lac Pcs	39.40	10.80	3.26	18.33
Total Imports	Lac Pcs	347.11	23.84	22.61	20.85
Market Share in Imports (%)					
China	%	0.23	0.45	10.32	-
Hong Kong	%	-	0.01	0.10	-
Singapore	%	-	0.25	-	-
Taiwan	%	-	-	0.16	-
Subject Countries	%	0.23	0.72	10.58	-
Countries attracting duties	%	88.42	53.97	75.00	12.08
Other countries	%	11.35	45.31	14.42	87.92
Domestic sales	Lac Pcs	4,906	4,902	4,257	2,626
Trend	Indexed	100	100	87	54
Market share in demand (%)					
Subject Countries	%	0.01	0.00	0.03	-
Countries attracting duties	%	4.04	0.16	0.25	0.07
Other countries	%	0.52	0.14	0.05	0.48
Domestic industry	%	64.61	61.85	61.88	69.16
Other Indian producers	%	30.82	37.85	37.79	30.29
Imports in relation to production of domestic industry (%)					
Subject Countries	%	0.00	0.00	0.02	-
Country Attracting Duties	%	1.76	0.07	0.12	0.02
Other Countries	%	0.23	0.06	0.02	0.16

57. It is noted that there is a significant decline in imports of subject goods from subject countries in absolute terms and in relation to production and consumption of the product in India. In fact, there were no imports of the product under consideration from any of the subject countries during the POI. Further, there are hardly any imports from countries other than subject countries and countries other than attracting anti dumping duties also. It appears that there is little demand for the subject goods into India.

Price Effect

58. With regard to the effect of the dumped imports on prices, Annexure II (ii) of the Rules states as under:

"With regard to the effect of the dumped imports on prices as referred to in sub-rule (2) of rule 18 the Designated Authority shall consider whether there has been a significant price undercutting by the dumped imports as compared with the price of like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increase which otherwise would have occurred to a significant degree."

59. Since there were no imports of the product under consideration from any of the subject countries during the POI, it is evident that the imports from subject countries were not undercutting the domestic industry prices.

Price suppression and depression

60. Comparison of cost of production and selling price of the domestic industry over the injury period shows as follows –

Particulars	Unit	2007-08	2008-09	2009-10	2010-11
Cost of sales	Rs/pc	4.90	4.78	4.40	5.14
Trend	Indexed	100	98	90	105
Net sales realization	Rs/pc	4.41	4.17	3.79	4.22
Trend	Indexed	100	95	86	96

61. It is noted that the selling price of the domestic industry has always remained below cost of production during the entire injury period. In particular, the cost of production declined up to 2009-10 and increased in POI. Selling price of the domestic industry has also followed the same trend as that of cost of production. However, till 2008-10, the decline in selling price was steeper than the decline in cost of production. Further, the increase in the selling price in the investigation period was lower than the increase in cost of production.

62. Analysis of information provided by the domestic industry showed that the increase in the cost of production in POI was due to increase in the prices of polycarbonate and

not on account of any imports of subject goods from subject countries. It is further noted that the domestic industry is sourcing polycarbonate from international market and therefore the increase in polycarbonate price was due to international increase in the prices of polycarbonate.

63. In view of the above, it is noted that there is no price effect in the absence of subject goods imports from subject countries.
64. However, in a sunset review investigation, it is also required to be examined whether there is likelihood of significant adverse price effect in case of expiry of anti dumping duty. The Authority is further required to examine whether the domestic industry is likely to face price undercutting, depression, suppression and underselling in the event of expiry of anti dumping duties. For the purpose, the Authority is required to consider the likely prices in the absence of anti dumping duty. The domestic industry has provided evidence of the price at which the goods are likely to be exported in the event of cessation of anti dumping duty. For the purpose, the domestic industry has provided copies of the emails exchanged between the domestic industry and some suppliers of subject goods from subject countries. However, as stated in this finding, these emails have been exchanged largely as a reply of a query from the domestic industry who is a major producer of subject goods in India, and not a consumer or end user. Further these emails do not give any information about the likely price of export of subject goods to any consumer or retailers or end users in India. Thus, the information submitted by the domestic industry does not suggest likely import of subject goods from subject countries into India, and also it does not indicate any real likely prices at which these subject goods are likely to enter into India.
65. With regard to submissions made by the domestic industry that imports are being reported from Indonesia who is apparently a producer in Indonesia who is related to the producer in Singapore attracting ADD at present and the contention of the domestic industry that should the anti dumping duty be revoked, the company is likely to shift back to Singapore, it is noted by the Authority that there are hardly any imports from countries other than subject countries and countries already attracting the anti dumping duties. In view of this, there appears little likelihood of the subject goods coming into India and also at dumped prices with the cessation of anti dumping duty on subject goods from subject countries.

Economic Parameters Relating To the Domestic Industry

66. 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 such products. With regard to consequent impact of these imports on domestic producers of such products, 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. An examination of performance of the domestic industry reveals that the domestic industry has suffered continued injury. The present investigations being a review investigations, injury to the domestic

industry is required to be assessed on mutates mutandis basis. Further, it was examined whether expiry of existing measure is likely to lead to injury to the domestic industry. The various injury parameters relating to the domestic industry are discussed below.

Production, Capacity, Capacity Utilization and Sales

67. Capacity, production, capacity utilization and sales volumes of the domestic industry have been as under:-

Particulars	Unit	2007-08	2008-09	2009-10	2010-11
Installed capacity	Lac Pcs	22,135	20,636	15,608	13,489
Trend	Indexed	100	93	71	61
Production	Lac Pcs	17,457	19,156	14,310	11,440
Trend	Indexed	100	110	82	66
Capacity utilization	%	78.87	92.83	91.69	84.80
Trend	Indexed	100	118	109	108
Domestic sales	Lac Pcs	4,906	4,902	4,257	2,626
Trend	Indexed	100	100	87	54
Demand	Lac Pcs	7,593	7,926	6,880	3,797
Trend	Indexed	100	104	91	50

68. It is noted that production and sales declined during the injury period despite anti-dumping duty in force. The petitioner contended that there is significant decline in demand of the product globally and in India and therefore the domestic industry has reduced its capacity. However, the petitioner was able to convert its CDR lines into DVD-R, a flexibility that is not available to all the producers globally but capability that the domestic industry has developed. It is noted that the decline in the sales and production of subject goods domestic industry is because of significant decline in the demand of subject goods in India and not due to any imports of subject goods from subject countries.

Profits, return on investment and cash profit

69. Profits, return on investment and cash profit of the domestic industry are given as under:

Particulars	Unit	2007-08	2008-09	2009-10	2010-11
Profit	Rs/Pc	(0.48)	(0.62)	(0.61)	(0.92)
Trend	Indexed	(100)	(127)	(127)	(189)
Profit before interest	Rs.Lacs	(358.50)	(1,092.39)	(1,153.13)	(2,405.79)
Trend	Indexed	(100)	(33)	(31)	(15)
Return on capital employed (NFA basis)	%	(0.73)	(3.46)	(5.19)	(18.78)
Trend	Indexed	(100)	(476)	(712)	(2,579)
Cash profit	Rs.Lacs	2,820.89	2,004.70	761.39	(605.98)

Trend	Indexed	100	71	27	(21)
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70. It is noted that the domestic industry has suffered financial losses throughout the injury period, extent of which increased throughout the injury period. During POI, Domestic Industry has suffered significant losses. The increase in financial losses during the POI appears to be significant which is due to increase in input prices.
71. Return on investment and cash profits have followed the same trend as that of profits. The domestic industry had negative return on investment throughout the injury period. However the cash profits of the domestic industry remained positive till 2009-10 but thereafter was negative during period of investigation.
72. It is noted in this context that continued significant decline in the operating performance of the domestic industry has happened despite the fact that there is hardly any imports of subject goods during the injury period and nil imports during the POI. In fact, there are negligible imports of subject goods from countries already attracting anti dumping duties as well as countries other than subject countries and not attracting anti dumping duties.

Employment, wages and Productivity

73. The Authority notes that the domestic industry is multi product company. Therefore, there is no direct effect on employment levels. Status of employment levels and wages of the domestic industry has been as under.

Particulars	Unit	2007-08	2008-09	2009-10	2010-11
Employment	Nos	1197	1116	913	864
Wages	Rs.Lacs	4,884	5,525	4,415	3,877

74. It is noted that employment level of the domestic industry has declined, which could be because of reduction of capacities in the product under consideration. Further, as a consequence of decline in employment, wages paid also declined.

Productivity

75. The productivity of the domestic industry is given in the following table:

Particulars	Unit	2007-08	2008-09	2009-10	2010-11
Productivity per employee	Pcs/Nos	14.59	17.16	15.67	13.24
Productivity per day	Pcs/Day	47.83	52.48	39.21	31.34

76. It is noted that productivity improved till 2008-09 but declined thereafter. However, the decline in productivity is not so significant as to have had significant adverse price effect on profits and return on investment.

Inventories

77. Designated Authority has examined the inventory level of the domestic industry, which is given in the following table:-

Particulars	Unit	2006-07	2007-08	2008-09	2009-10
Average stock	Lac Pcs	3,010	4,149	3,665	2,549
Trend	Indexed	100	138	122	85

78. It is noted that the inventory levels with the domestic industry declined.

Growth

79. It is noted that growth of the domestic industry in terms of volume and price parameters has remained negative despite imposition of anti dumping duties. However, the same has been negative despite the fact that there are negligible imports of subject goods from countries already attracting anti dumping duties as well as countries other than subject countries and not attracting anti dumping duties.

Magnitude of Dumping Margin

80. It is noted that there is no current dumping of subject goods during the POI as there are no imports from subject countries.

Ability to raise capital

81. The domestic industry is a multi product company. The petitioner has contended that if dumped imports are allowed to continue, its adverse impact would surely impact domestic industry's ability to raise capital investments. It is noted that the investments in the product under consideration have declined, which is due to curtailment in capacities deployed for the product under consideration in view of the significant decline of the subject goods in India.

Examination by Authority on continuation of injury

82. It is noted that imports of the product under consideration declined significantly over the injury period and there were no imports of the product in the POI from any of the subject countries. In fact, there are very little imports of subject goods from countries already attracting anti dumping duties as well as countries other than subject countries and not attracting anti dumping duties. As stated above, in the absence of imports of subject goods from subject countries, there is no continued price effect on account of imports of subject goods from subject countries as there is hardly any imports of subject goods during the injury period and nil imports during the POI.

83. It is noted that performance of the domestic industry has deteriorated in terms of production, domestic sales, capacity utilization, profits, cash profits and return on capital employed. The continued and significant deterioration in the operating performance of the domestic industry has to be seen in the light of fact that there are very little imports of subject goods from countries already attracting anti dumping duties as well as countries other than subject countries and not attracting anti dumping duties. Further, the demand of subject goods in the country has significantly declined

during the injury period. In view of the above analysis of various injury parameters during injury period, it is noted that the domestic industry has suffered continued injury, however, the continued injury is because of factors other than imports of subject goods from subject countries.

Other Known Factors And Causal Link

84. The Authority has examined whether other listed known factors could have caused or are likely to cause injury to the domestic industry.

Volume and prices of imports from other sources

85. It is noted that the imports of the product under consideration from other countries are also quite low and some of these countries are already attracting anti dumping duties. The imports from other countries could not have therefore caused injury to the domestic industry.

Contraction in demand and / or change in pattern of consumption

86. It is noted that the demand of the subject goods has shown significant decline. The domestic industry has also submitted that there is significant decline in demand for the product both in the domestic and international market. It thus appears that the continued injury to the domestic industry is a result of decline in demand for the product in India and globally. This decline in demand appears to a result of shift in consumption pattern. DVDR and other storage media devices are increasingly preferred over to CDR, thus leading to decline in demand for the product.

Trade restrictive practices of and competition between the foreign and domestic producers

87. The subject goods are freely importable and there are no trade restrictive practices in the domestic market. The subject goods produced by the domestic producer compete among one another and at the same time compete with the landed price of the subject goods.

Developments in technology

88. It is noted that the technology for production of the subject goods has neither undergone any material change nor is likely to change in future. Developments in technology, therefore, do not appear to be a possible factor of injury.

Productivity of the Domestic Industry

89. It is noted productivity improved till 2008-09 but declined thereafter. However, the decline in productivity is not so significant as to have had significant adverse price effect on profits and return on investment.

90. It is thus concluded that decline in demand and continued and significant injury to the domestic industry is as a result of shift in consumption pattern from CDR to DVDR and other storage media devices has caused continued injury to the domestic industry.

Likelihood of Injury: Submissions by domestic industry

91. The present investigation being a Sunset Review, the question of likelihood of dumping and injury to the domestic industry has been examined by the Designated

Authority in terms of Section 9 (A) (5) of the Customs Tariff Act, which states as under:-

(5)The Anti dumping duty imposed under this section shall, unless revoked either, case to have effect on the expiry of five years from the date of such imposition;

Provided that if the Central Government, in a review, is of the opinion that the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury, it may, from time to time, extend the period of such imposition for a further period of five years and such further period shall commence from the date of order of such extension;

Provided further that where a review initiated before the expiry of the aforesaid period of five years has not come to a conclusion before such expiry, the Anti dumping duty may continue to remain in force pending the outcome of such a review for a further period not exceeding one year.

92. In addition to the examination of continued injury, likelihood of continued or recurrence of injury to the domestic industry has also been examined by the Authority on the basis of information and evidence presented by domestic industry during the course of the investigations. The domestic industry has submitted that the requirement under sunset review is to examine whether expiry of anti dumping duty is likely to lead to continuance or recurrence of injury to the domestic industry. Therefore, all such factors brought to the notice of the Authority have been examined to ascertain if there is a likelihood of continuation or recurrence of injury in the event of expiry of the duty.
93. For examining the likely hood of injury in the absence of any imports of subject goods from subject countries during the POI, the Authority has examined the following submissions of domestic industry i.e Prices offered by the exporters of the exporters from subject countries and the price list of the exporter from Taiwan. It has been submitted by the domestic industry that on the basis of prices offered by the exporters of the subject countries and non injurious price determined for the domestic industry during the same period, the landed value of imports from the subject countries without the antidumping duty would have been significantly below the cost of production, selling price and non injurious price determined for the domestic industry.
94. It has also been submitted that the landed price of imports of imports of subject goods from subject countries would have been significantly below cost of production, selling price and non injurious price of the domestic industry. Therefore, it has been submitted that should the present measure expire, the producers in subject countries are likely to undercut the domestic prices to a significant degree, which shall have significant depressing effect on the prices of the domestic industry in the market and consequent financial losses that the domestic industry is likely to suffer in the event of expiry of duty shall be significantly higher than the financial losses being suffered by the domestic industry. In this regard, the domestic industry has submitted that the same sets of producers are involved in production of CDR and DVDR. Further, both CDR and DVDR are attracting anti dumping duty. They have further submitted that the price at which the DVD have been imported into India should also be taken into account by the Authority keeping in view the facts that (i) the same set of producers

are producing both CDR and DVD in the exporting countries, (ii) interchangeable production facilities of subject goods and DVD, (iii) DVDR imports are also subject to anti dumping duty, (iv) the information provided by the domestic industry with regard to CDR and DVDR shows that the CDR prices should be about 30% lower than DVD prices. It has also been submitted that none of the exporters/producers from any of the subject countries as well as any of the Indian importers/consumers have responded in this review investigation. Further, they have also submitted that there is excess capacity of subject goods in the subject countries. It has further been submitted by the domestic industry that imports are being reported from Indonesia who is apparently a producer in Indonesia who is related to the producer in Singapore attracting ADD at present. The domestic industry contended that should the anti dumping duty be revoked, the company is likely to shift back to Singapore. It has also been submitted that the investigation earlier conducted by the Authority established that the volume of imports from subject countries declined very significantly after imposition of anti dumping duty and the volume of imports increased from other countries not covered under anti dumping duty. Further, after imposition of anti dumping duty on these countries, the volume of imports from various sources has significantly declined. Thus, it has been contended that should the present anti dumping duty be withdrawn, imports of the product under consideration are likely to enter Indian market at prices significantly below the normal value.

95. It has been submitted that the domestic industry is already suffering continued injury and should the present anti dumping duty be withdrawn, imports of the product under consideration are likely at prices significantly below the current selling price and cost of production of the domestic industry. Thus, revocation of anti dumping duty shall cause price undercutting in the market and its performance will deteriorate further in respect of profits, return on investment and cash profits. Thus, cessation of anti dumping duty shall lead to further deterioration in the performance of the domestic industry.

Comments after the disclosure statement by domestic industry

96. In the comments to the disclosure statement, the domestic industry has reiterated their views with regard to their claims made earlier to the Authority that there is a likelihood of recurrence of injury in the event of cessation of anti dumping duty of subject goods from subject countries. In particular, they have again raised the issues regarding likely prices of the subject goods from subject countries on the basis of prices offered by these exporters through emails and price lists and interchangeable nature of production of CDR and DVD-R and transshipment of the subject goods from other countries. They have added that the decline in the demand of subject goods in India is much higher than the decline elsewhere in the subject countries. Further, they have added that in the event of non cooperation from exporters from subject countries, the Authority should base their information on the basis of best information available i.e information submitted by the domestic industry and the same can not be rejected. They have added few decisions of the other investigating Authorities and have stated that the Authority should decide the matter taking into account these decisions.

Comments after the disclosure statement by other interested parties

97. No comments have been received from any other interested parties after the issuance of disclosure statement.

Likelihood of recurrence of Injury – Examination by the Authority

98. With regard to copies of the emails allegedly exchanged between the domestic industry and suppliers of subject goods in the countries which has been submitted by the domestic industry, it is noted that these email exchanges date the time (mainly during July-August 2011) when the petition was submitted by the domestic industry to the Authority. Further, these emails have been exchanged largely as a reply of a query from the domestic industry who is a major producer of subject goods in India, and not a consumer or end user. Further these emails do not give any information about the likely price of export of subject goods to any consumer or retailers or end users in India. It is also noted that some of the price lists enclosed by the domestic industry with respect to price of subject good prevailing in subject countries do not indicate that these subject goods would be likely to be exported to India at these prices as there is no evidence on records to suggest that these subject goods are indeed being exported into other countries as well and at these prices. It may be recalled from the analysis in the casual link concerning demand of the subject goods that the demand of the subject goods in the country has gone down and domestic industry itself has changed the product mix of CDR and reduced the production capacity of the subject goods In India. In fact, it is also noted that the there is continuous decline of the subject goods in India and based on the submissions and examination by the Authority, the change in the demand has resulted because of alternative product being available in the market. In view of the above, the information submitted by the domestic industry does not suggest likely import of subject goods from subject countries into India, and also it does not indicate any real likely prices at which these subject goods are likely to enter into India and cause injury to the domestic industry.
99. With regard to submissions by the domestic industry that the same set of producers of subject goods from subject countries are involved in production of CDR and DVDR and both CDR and DVDR are attracting anti dumping duty and the price at which the DVD have been imported into India should also be taken into account by the Authority keeping in view the facts that (i) the same set of producers are producing both CDR and DVD in the exporting countries, (ii) interchangeable production facilities of subject goods and DVD, it is noted that the subject investigations have been initiated on the CDR and not DVDR or other optical disc devices and the Authority would take into account the information concerning likely hood of imports of subject goods only during the POI and post POI period. On the issue of similar and interchangeable lines of manufacture of CDR and other optical disc like DVDR as a ground for indicating likely hood of dumping of CDR if the anti dumping duty is revoked, it is stated that interchangeability of two products in a production line cannot be a criteria for likelihood of importation into India.. Further, DVDR and CDR are different optical discs and carry different costs and prices and just because some of the manufacturing processes are common for CDR and DVDR cannot be a ground for determining the likelihood of imports of CDR into India.

100. With regard to the issue that the producers in subject countries are faced with significant capacities and in the event of cessation of anti dumping duty on subject goods from subject countries, it is noted that the Authority has not come across any information with regard to excessive capacity of subject goods in the subject countries. It has been also submitted that the export orientation of the foreign producers is quite high. In this regard, it is noted that the capacities mentioned by the domestic industry pertain to many products including CDR combined together and no information has been submitted with regard to the prices at which these subject goods have been exported to other countries. The Authority has also not come across any exports of subject goods from subject countries to third countries at dumped prices.
101. With regard to submissions made by the domestic industry that imports are being reported from Indonesia who is apparently a producer in Indonesia who is related to the producer in Singapore attracting ADD at present and the contention of the domestic industry that should the anti dumping duty be revoked, the company is likely to shift back to Singapore, it is noted by the Authority that there are hardly any imports from countries other than subject countries and countries already attracting the anti dumping duties. In view of this, there appears little likelihood of the subject goods coming into India and also at dumped prices with the cessation of anti dumping duty on subject goods from subject countries and injuring the domestic industry.

Conclusions:

102. The Authority notes that there is no continuation of dumping of subject goods from subject countries and there is no likelihood of recurrence of dumping of subject goods from subject countries and on the basis of the examination, it is concluded that cessation of anti-dumping duty on subject goods from subject countries is not likely to lead to continuation or recurrence of dumping and injury to domestic industry.
103. In view of the above, it is recommended that antidumping duty as notified vide Notification No. 78/2007-CUS dated 29th June, 2007 and extended up to 3rd October, 2012 vide notification No. 100/ 2011-Customs dated 14th November, 2011 in terms of Section 9(A)(5) of the Act be withdrawn.

Further procedures

104. An appeal against the orders of the Central Government that may arise out of this recommendation shall lie before the Customs, Excise and Service tax Appellate Tribunal in accordance with the relevant provisions of the Act.

(Vijaylaxmi Joshi)
Designated Authority