

(To be published in Part-I Section I of the Gazette of India Extraordinary)

Government of India
Department of Commerce
Ministry of Commerce & Industry
(Directorate General of Anti-Dumping & Allied Duties)
Jeevan Tara Building, Parliament Street,

New Delhi
Dated the 14th October 2014

NOTIFICATION

Final Findings

Subject: First Sunset Review (SSR) anti-dumping investigation concerning imports of ‘Digital Versatile Discs-Recordable of all kinds (DVD-R and DVD-RW)’ originating in or exported from China PR, Hong Kong and Chinese Taipei.

F. No. 15/10/2013-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, as amended from time to time (hereinafter referred to as the Rules).

A. Background of the Case

1. Whereas the Designated Authority, in the Ministry of Commerce and Industry, Department of Commerce, Govt. of India, appointed under the Rules supra, (hereinafter referred to as “the Authority”), vide Notification No. 14/17/2007-DGAD dated 20.11.2007, initiated an anti-dumping investigation concerning import of ‘Digital Versatile Discs-Recordable (DVD-R and DVD-RW), originating in or exported from China PR, Hong Kong and Chinese Taipei (hereinafter referred to as “subject countries”). The Preliminary Findings were issued by the Authority, vide Notification No.14/17/2007-DGAD dated 16.06.2008 and the provisional anti-dumping duty was imposed by the Central Government, vide Notification No. 89/2008-Customs dated 23.07.2008. The Final Findings were issued by the Authority vide notification No. 14/17/2007-DGAD dated 19.11.2008, recommending imposition of definitive duty. On the basis of the recommendations made by the Authority in the final findings, definitive anti-dumping duties were imposed by the Central Government, vide Notifications No.8/2009-Customs dated 22.06.2009 on the imports of the of the above goods,

originating in or exported from the subject countries. The definitive duties were valid for a period of 5 years from 23.07.2008.

2. And whereas M/s Moser Baer India Limited, the major domestic manufacturer of the subject goods in India, filed a duly substantiated application before the Authority on 03/07/2013, on behalf of the domestic industry, in accordance with the Act and the Rules, alleging likelihood of continuation or recurrence of dumping of the above goods, originating in or exported from subject countries and consequent injury to the domestic industry in the event of cessation of duty, and requested for a review of the same for continuation and enhancement of the anti-dumping duties imposed on the imports of 'Digital Versatile Discs-Recordable (DVD-R and DVD-RW), originating in or exported from the subject countries.
3. And whereas on the basis of the duly substantiated application filed on behalf of the domestic industry and in accordance with section 9A(5) of the Act, read with Rule 23 of the Anti-dumping Rules, the Authority initiated a sunset review investigation, vide Notification No. 15/10/2013-DGAD dated 18.07.2013, to review the need for continued imposition of the duties in respect of 'Digital Versatile Discs-Recordable (DVD-R and DVD-RW) (hereinafter referred to as subject goods), originating in or exported from the subject countries, and to examine whether the expiry of such duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry. The validity of the anti-dumping duty on the imports of the subject goods from the subject countries was extended by the Central Government up to and inclusive of 22nd day of July, 2014, vide Notification No.19/2013-Customs (ADD) dated 29.08.2013.
4. On the request of the Authority the Central Govt. has extended the time period for completion of the Investigation by three months, i.e., up to 17.10.2014, in terms of Rule 17 of the AD Rules.
5. The scope of the present review covers all aspects of the original investigation concerning imports of the above goods, originating in or exported from the subject countries.

B. Procedure

6. The procedure described below has been followed with regard to the subject investigation:
 - i. The Embassies of the subject countries in New Delhi were informed about the initiation of the investigation in accordance with Rule 6(2).

- ii. The Authority provided access to the copies of the non-confidential versions of the applications to the known exporters and the embassies of the subject countries and other interested parties in accordance with Rules 6(3) supra.
- iii. The Authority forwarded copies of the public notice to the following known producers/exporters in the subject countries and provided them opportunity to make their views known in writing within forty days thereof in accordance with the Rules 6(2) & 6(4):

CHINA

- 1. Shanghai Suncd Electronic Technology Co. Ltd.
- 2. Guangdong New Face Laser Technology Co. Ltd.
- 3. Shantou SEZ Wo Hing Radio & Video Co. Ltd.
- 4. Foshan Nanhai Pearl Audio& Video Co.
- 5. Shenzhen Guan Yu Opto Electronics Technology Co. Ltd.
- 6. Xiamen Liao Sheng Trading Co. Ltd.
- 7. Shantou Yuehai Audio and Video Co. Ltd.
- 8. Guangzhou Banana Computer Technology Co. Ltd.
- 9. Jiangxi Guangxing Science& Technology Development Co. Ltd.
- 10. Topford Development Limited
- 11. Umedisc (dongguan) Ltd.

HONG KONG

- 1. Amigos Connection (HK) Ltd.
- 2. Saitron Technology Ltd.
- 3. Audio Distributors Co. Ltd.
- 4. Promedia International Ltd.
- 5. Topford Developments Hong kong
- 6. Optical Disc Manufacturing & Technologies Association Ltd.

CHINEESE TAIPEI

- 1) El Major Technology Co. Ltd.
- 2) HIM Technology Inc.
- 3) Sunon Media Co. Ltd.
- 4) Mintech Technology Co. Ltd.
- 5) Melody Technology Corporation
- 6) Vanprashth Corporation
- 7) Ritek Corporation Taiwan

- 7. No response or submission has been filed by any of the producers/exporters from the subject countries.
- 8. China being a Non-Market Economy country, a Market Economy Treatment (MET) questionnaire was also forwarded to all the known producers/exporters in China PR and the Embassy of China PR with the request to provide relevant

information to the Authority within the prescribed time limit. While for the purpose of initiation the normal value in China was considered based on the cost of production of the subject goods in India, duly adjusted, the Authority informed the known producers/exporters from China PR that it proposes to examine the claim of the applicant in the light of Para 7 and Para 8 of Annexure I of Anti-dumping Rules, as amended. The exporters/producers of the subject goods from China PR were, therefore, requested to furnish necessary information/sufficient evidence as mentioned in sub-paragraph (3) of paragraph 8 of Annexure I referred above to enable the Authority to consider whether market economy treatment can be granted to the cooperative exporters/producers in that country. However, no response has been received from the producer/exporters from China PR in this regard.

9. The Authority forwarded copies of the public notice to the following known importers/consumers of subject goods in India (whose names and addresses were made available to the authority) and advised them to make their views known in writing within forty (40) days from the date of issue of the letter in accordance with the Rule 6(4):

- 1) Rashi Peripherals Pvt. Ltd.
- 2) Dynamic Overseas
- 3) Jas International
- 4) hanix Overseas
- 5) Aditya Enterprises
- 6) Veeline Media Ltd.
- 7) Himalayan Times Pvt. Ltd.
- 8) Allied Electronics and Magnetics Ltd.
- 9) Rana Peripherals Pvt. Ltd.
- 10) Baba International Pvt. Ltd.
- 11) Anant Electronics Pvt Ltd
- 12) Computer Skill Limited
- 13) Super Cassettes Industries Limited ,
- 14) Super Cassette
- 15) Global Infitech
- 16) Solar Compact Disc Private Limited
- 17) Diamond Disc Private Limited
- 18) Futuristic Concepts Media Ltd
- 19) Jet Speed Audio Private Limited
- 20) Powercube Infotech Pvt.Ltd
- 21) Saregama Regency Optimedia Private Limited
- 22) Sony Dadc Manufacturing India Pvt. Ltd.
- 23) SP Soft Digital Media Private Limited
- 24) Pearl Engineering Co. (Unit-II)
- 25) Product Reach Private Limited
- 26) Siddharth Optical Disc Pvt. Ltd.
- 27) Anant Electronics Private Limited
- 28) Arihant Electronics

- 29) Global Infitech
- 30) Jet Speed Audio Private Limited
- 31) Diamond Disc Private Limited

10. No response or submission, by way of response to the questionnaire, has been submitted by any of the importers/users/other interested parties.
11. A copy of the initiation notification was also sent to the following other known domestic producers of the subject goods, namely, (i) M/s Euro Multivision Ltd, (ii) M/s Jupiter International Limited, (iii) M/s Next Star Digital and (iv) M/s Shanti Plast. M/s Euro Multivision Ltd has supported the petition. Other producers have not responded.
12. The Period of Investigation (POI) for the purpose of the present review is 1st April, 2012 to 31st March, 2013. The examination of trends in the context of injury analysis covers the periods April 2009-March 2010, April 2010-March 2011, April 2011-March 2012 and the POI. Further, the Authority has also examined the post-POI (April 2013-March 2014) data to analyse the trends for the purpose of likelihood assessment.
13. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of import data of the subject goods for the injury period (April 2009-March 2010, April 2010-March 2011, April 2011-March 2012), including the POI (April 2012- March 2013) and also the post-POI (April 2013- March 2014). The Authority has relied on the DGCI&S data for the analysis in this regard.
14. Exporters, producers, importers and other interested parties, who have neither responded to the Authority nor supplied information relevant to this investigation, have been treated as non-cooperating interested parties by the Authority.
15. The Authority made available non-confidential version of the evidence presented by interested parties in the form of a public file kept open for inspection by the interested parties as per Rule 6(7).
16. The Authority has examined the information furnished by the domestic producer to work out the cost of production and determined the non-injurious price of the subject goods in India, as per its consistent practices, so as to ascertain if anti-dumping duty, lower than the dumping margin, would be sufficient to remove injury, if any, to the domestic industry.
17. In accordance with Rule 6(6) of the AD Rules, the Authority also provided opportunity to all interested parties to present their views orally in a public hearing held on 11.06.2014, which was attended only by the domestic industry

and their representatives. The domestic industry was requested to file written submissions of their views expressed orally.

18. The submissions made by the interested parties during the course of the investigation and considered relevant by the Authority, have been addressed in this finding.
19. Verification of the information and data submitted by the participating domestic producer was carried out to the extent deemed necessary.
20. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.
21. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has used 'best information available' and has treated such parties as non-cooperative.
22. The Authority disclosed the essential facts of the case to all interested parties in the form of a disclosure statement on 24th September 2014. The interested parties were given an opportunity to comment on various aspects of the investigations disclosed in the statement by 30th September 2014. No comment has been received from any interested party except the domestic industry. The comments received from the domestic industry have been considered to the extent they are relevant and have been appropriately addressed in this finding.
23. In this finding '***' represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
24. The exchange rate for the POI has been taken by the Authority as Rs.54.65 = 1 US\$.

C. Scope of Product Under Consideration and Like Article

25. The product under consideration in the original investigation was defined as "Recordable Digital Versatile Discs [DVDs] of all kinds. DVDs 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."

C.1 Submissions made by the Domestic Industry

26. The domestic industry, in its post initiation submissions has requested the Authority to drop all types of rewritable DVDs (DVD-RWs) from the scope of product under consideration in the review investigation and to treat their petition with respect to this product (DVD-RW) for continuation of the antidumping duty as withdrawn. In this regard the domestic industry has *inter alia* submitted that

I. About 99.9% of the production and sales by the domestic industry in the domestic market pertains to DVD-Rs. Demand for DVD-RWs is extremely limited and therefore, exclusion of DVD-RWs would not cause significant injury to the domestic industry while withdrawal of anti-dumping duty on the DVD-Rs would cause material injury.

II. DVD-Rs and DVD-RWs cater to entirely different market segments. While imports of DVD-Rs from the subject countries are at a very low and dumped prices and therefore, likely to cause injury to domestic industry if the duty is not extended, the imports of DVD-RWs are at higher prices and domestic industry may not suffer injury at those prices, given the low market size of DVD-RWs.

III. The price at which imports of DVD-Rs are being made from subject countries clearly shows likelihood of continuation or recurrence of dumping and injury, in case anti dumping duty is withdrawn. The imports of DVD-RWs are at higher prices and could lead to negative average dumping margin and/or injury margin. However, that does not mean that the low priced dumped imports of DVD-Rs would not cause injury. It only means that averaging of DVD-RWs and DVD-Rs would show distorted results with regard to dumping and injury. Therefore, in order to remove the distortion, it would be appropriate to restrict the scope of the product under consideration to cover only DVD-Rs. Import price of DVD-Rs would clearly show likelihood of dumping and injury in case the anti-dumping duty is withdrawn.

IV. Since 99.9% of the domestic industry market is DVD-Rs, the domestic industry is primarily concerned with the imports of DVD-Rs. Accordingly, the domestic industry has requested the Authority to consider the revised scope of the product under consideration excluding DVD-RWs.

27. In support of its argument for revision of the scope of the product under consideration in this sunset review investigation, the domestic industry has further submitted that the Designated Authority has, in several past review

cases, revisited the scope of product under consideration and therefore, there is no bar on such a review in this case.

28. The domestic industry has further argued that deletion of one product type from the scope of the investigation would not amount to zeroing for the purpose computation of dumping margin. It has been submitted that in zeroing practices the product continues to attract ADD while the negative dumping margins of that product type is assigned a zero value. But in this case the domestic industry is requesting for deletion of the product type (DVD-RWs) from the scope of the investigation itself and it would not attract the duty. Therefore, it would not amount to zeroing. The domestic industry has further submitted that exclusion of DVD-RWs from the scope of the product scope has been sought owing to its negative dumping margin, thereby acting judiciously and not seeking unwarranted protection.

29. In its post disclosure submissions the domestic industry has reiterated its arguments on the product under consideration. It has been submitted that the request of the domestic industry for exclusion of DVD-RWs is not for the reason that DVD-Rs and DVD-RWs are two distinct products. The request is for the reasons (a) while there is technical substitutability between the two products, there is no commercial substitutability as far as consumers are concerned, (b) while producers can switch between the two types, consumers cannot, (c) the dumping margin and injury margin in DVD-Rs are positive, while the same are negative in case of DVD-RWs, (d) more than 99% of domestic sales in the Indian market and about 98% of the exporters' sales in third countries constitute DVD-Rs. The market for DVD-RWs is extremely limited, (e) in view of significant price difference between DVD-Rs and DVD-RWs, cessation of anti dumping on DVD-RWs shall not lead to injury to the domestic industry in respect of DVD-Rs, (f) the likelihood of injury to the domestic industry is from the dumping and injury in case of DVD-Rs. No likelihood of dumping and injury in DVDRW does not imply no likelihood of dumping and injury in DVD-Rs, (g) while actual volume of imports may be relevant for the purpose of deciding actual dumping and injury, sales volumes of the domestic industry and export volumes of the exporters in third countries are relevant for likelihood determination, (h) while the domestic industry achieved a price higher than NIP in case of DVD-RWs, domestic industry NSR for DVD-Rs was lower than NIP, which further establishes difference in the two types. Therefore, while DVD-Rs and DVD-RWs constitute one product, these are two different and distinct types of the product under consideration. It has been further submitted that the Designated Authority has in the past differentiated in distinct product types and restricted the scope of product under consideration by excluding some product types even when the excluded and included product remains same product only.

C.2 Submissions by producers/exporters/importers/other interested parties

30. None of the producers/exporters/importers/other interested parties has made any submissions in this regard.

C.3 Examination by the Authority

31. The product under consideration (PUC), as defined in the original investigation, was Digital Versatile Discs-Recordable of all kinds (DVD-Rs and DVD-RWs). Recordable Digital Versatile Discs [DVDs] can be of a number of types, such as, Writable DVDs such as DVD-R, DVD+R, mini DVD-R, mini DVD+R, DVD+R DL, DVD-R DL and Re-writable DVDs such as DVD-RW, DVD+RW, mini DVD-RW, mini DVD+RW etc. It was further noted that to allow information to not only be written but also re-written many times over, DVD-RW, DVD+RW (Re-writable) disc construction is more complex than that of DVD-R and DVD+R. 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.

32. The present investigation being a sunset review, the product under consideration should normally remain the same as in the original investigation. However, the Authority notes that Domestic Industry has requested the authority to remove DVD-RWs from the scope of the present investigation and the review to be conducted in respect of DVD-Rs only. The basic arguments extended by the domestic industry for exclusion of DVD-RWs from the present investigation are that almost 99.9% of production of the domestic industry constitutes DVD-Rs only and due to the price differential between DVD-Rs and DVD-RWs the dumping and injury parameters are getting distorted. The domestic industry has further argued that the likelihood of injury to DVD-Rs segment is more prominent whereas due to the price differential, import of DVD-RWs would not cause significant injury to the domestic industry.

33. The Authority notes that none of the interested parties has contested the request made by the domestic industry or submissions made in respect of the scope of product under consideration in this review investigation. However, the authority has examined the submissions of the domestic industry with reference to existing jurisprudence on the subject in the absence of any submission/view on behalf of any other interested parties.

34. Examination of the production process and usage of both the products reveals that though both DVD-Rs and DVD-RWs fall within the broad definition of Recordable Digital Versatile Discs; they are in fact two separate and distinguishable types of products, both in terms of their manufacturing process

and end use. DVD-RW, DVD+RW disc construction is more complex than that of DVD-R and DVD+R (recordable) so as to allow information to not only be written but also re-written many times over, and therefore, their cost and price structures are also different. DVD-Rs are used primarily for permanent data storage and sold to software and entertainment sector, which includes recording Movies, Photos, Hospital, Rental, Games & Computers application areas, etc. for one time recoding and multiple use, whereas DVD-RWs are used for data collection, storage and transfers multiple times. The consumers of DVD-Rs would not use DVD-RWs, for the reason that the price difference between DVD-Rs and DVD-RWs is materially significant. The products are clearly not *inter se* substitutable. Due to these reasons DVD-Rs and DVD-RWs should have been treated as two distinct products rather than product types within the same broad product category. However, on the request of the domestic industry both the products were included as two product types in the original investigation. Therefore, the question arises whether one product type can be excluded from the scope of the product under consideration in a sunset review. The matter has been examined with reference to existing practices and jurisprudence on the issue.

35. In EC Salmon Case, (Panel Report- European Communities- Antidumping Measures on farmed Salmons from Norway- WT/D5337/R 16th November 2007) Norway argued that internal homogeneity of the product under consideration is mandatory under ADA. Norway stated that if Cars and Bicycles are treated as one product in an investigation it would not be known whether some or all of the products are dumped. The Panel, while rejecting the argument, noted that: “we are not persuaded by Norway’s extreme examples. Any grouping of products into a single product under consideration will have its repercussions throughout the investigation, and the broader such grouping is, the more serious such repercussions might be, complicating the investigating authority’s task of collecting and evaluating relevant information and making determination consistent with the AD Agreement.”
36. The above observations of the Panel in Salmon case, though does not provide a clear answer to the above question, may imply that once a product under consideration is defined including several product types in an investigation, subsequent reviews also need to examine the need for continuation of the duty on the product as a whole based on same set of product types. DI has submitted that there are several cases in which Designated Authority has altered the scope of the product under consideration in a review. But examination of the cases referred indicates those reviews are in different contexts. In the instant case in the original investigation DVD-Rs and DVD-RWs had been treated as two product types and dumping margin and injury margins were determined for product as a whole. Therefore, any alteration of the product by deleting a product type could have implication in terms of dumping and injury determination as has been contended by the domestic industry themselves. Therefore, it would not be

appropriate to exclude one type of product from the scope of the product under consideration. Accordingly, the Authority considers it necessary to examine both dumping, injury and likelihood of dumping and injury in this review investigation with reference to the product under consideration in the original investigation. Therefore, the scope of the product under consideration covers both DVD-Rs and DVD-RWs as in the original investigation.

37. The Authority further notes that the product under consideration produced by the domestic industry is like article to the goods imported from the subject countries. Product under consideration produced by the domestic industry and imported from the subject countries is comparable in terms of physical and chemical characteristics, manufacturing process and technology, functions and uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. Therefore, goods produced by the domestic industry and imported from subject countries are like articles in terms of the Rules.

38. The definitive Anti-dumping Duty has been imposed by the Central Government vide Customs Notification No.8/2009-Customs dated Jan/22/2009 under the Customs Head 85234160 and 85234940. The PUC is classified under Customs Heading 85234160 and 85234940 of the first schedule of the Customs Tariff Act, 1975. However, customs classification is indicative only and not binding on the scope of the investigation.

39. The petitioner constituting domestic industry in the present SSR investigation has the capacity to manufacture the product under consideration.

D. Domestic Industry and Standing

D.1 Submissions by the Domestic Industry

40. The following are the submissions made by the domestic industry with regard to scope of the domestic industry and standing:
- i. The Petitioner has submitted that there are four other known producers of the product under consideration in the country – namely, M/s Euro Multivision Limited, M/s Jupiter International Limited, M/s Next Star Digital and M/s Shanti Plast.
 - ii. However, the petitioner, i.e. M/s Moser Baer India Ltd., commands more than 86% share in Indian production of the subject goods during the POI and, therefore, constitute domestic industry and satisfy the standing requirement for the purpose of this investigation.

D.2 Submissions by producers/exporters/importers/other interested parties

41. None of the exporters/importers/other interested parties has made any submissions in this regard.
42. M/s Euro Multivision Limited has supported the petition, but has not filed relevant questionnaire response.

D.3 Examination by Authority

43. The Authority notes that there are other known producers of the subject goods in the country namely M/s Euro Multivision Limited, M/s Jupiter International Limited, M/s Next Star Digital and M/s Shanti Plast. M/s Euro Multivision Limited has supported the petition. There were no response from M/s Jupiter International Limited, M/s Next Star Digital and M/s Shanti Plast. There is no opposition from any interested party in the present investigation. The production of the applicant producer constitutes major portion of the total production of the subject goods and therefore, the applicants constitute domestic industry within the meaning of the term as per the AD Rules.

E. Determination of current Dumping and likelihood of continuation or recurrence of dumping

E.1 Legal Positions

44. Section 9A (5) of Customs Tariff Act, 1975 provides that:-

“The anti dumping duty imposed under this Section shall, unless revoked earlier, cease 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.”

45. Accordingly, a sunset review investigation is to examine:

- Whether the dumping continues after imposition of the antidumping duty and if so, whether it is likely to continue;
- In cases where dumping did not continue, whether the dumping would recur in the event of revocation of anti dumping duties;
- Whether the domestic industry continued to suffer material injury and if so, whether injury to the domestic industry is likely to continue if the duties are removed;
- In cases where the domestic industry has not suffered continued injury, whether injury to the domestic industry is likely to recur in the event of revocation of anti dumping duties.

46. Therefore, the Authority has first proceeded with the examination whether dumping of the subject goods continues from the subject countries and whether dumping is likely to continue or recur if the duties are revoked, before proceeding to examination of injury and the likelihood of continuation or recurrence of injury.

E.2 Examination of Continuation of Dumping: Determination of Normal Values, Export Prices and Dumping Margins

E.2.1 Views of the Domestic Industry

47. The petitioner domestic industry has submitted that that China being a non market economy, normal value of the subject goods in that country cannot be determined on the basis of price prevailing in that country and therefore, needs to be constructed. With regard to determination of a normal value in China the domestic industry has inter alia argued that:

- I. Market economy status cannot be granted unless the responding exporter/company and its group as a whole make a claim. In the present case, there is no claim for market economy treatment. None of the Chinese exporters have filed questionnaire response, nor claimed market economy treatment.
- II. In the original investigations, the Authority had not granted market economy treatment to any of the exporters from China and determined the normal value in China on the basis of the constructed normal value based on the estimated cost of production of the subject goods in China with reasonable profit in terms of Para 7 & 8 of the Annexure 1 to the said Rules as amended. Authority should consider the same methodology to calculate the normal value for China PR in the current investigation.
- III. The normal value in China can be determined on the basis of (a) price in India, and (b) cost of production in India, duly adjusted, including selling, general and administrative expenses and profit. Normal Value in China

should be determined on the basis of cost of production in India, duly adjusted.

- IV. The normal value in China may be constructed by considering international price of the raw material and adopting the consumption norms and conversion cost as per the best information available, including that of the domestic industry.
- V. As far as Hong Kong and Chinese Taipei are concerned, there is no response from any exporter, or any other interested party, providing any information about the normal values in those countries. In the absence of response from these countries the normal values for these countries should also be constructed by considering international price of the raw materials and adopting the consumption norms and conversion cost as per the best information available, including that of the domestic industry.

E.2.2 Submissions by producers/exporters/importers/other interested parties

48. None of the producers/exporters/importers/other interested parties has made any submissions in this regard.

E.2.3 Examination of Market Economy Claims and Determination of Normal Value in China PR

49. At the stage of initiation, the Authority proceeded with the presumption that China PR is a non-market economy country. Upon initiation, the Authority advised the producers/exporters in China to respond to the notice of initiation and provide information relevant to determination of their market economy status. The Authority sent copies of the MET questionnaire to all the known producers/exporters for rebutting presumption of non-market economy in accordance with criteria laid down in Para 8(3) of Annexure-I to the Rules. The Authority also requested Government of China to advise the producers/exporters in China to provide the relevant information. However, none of the Chinese producers/exporters has filed any response. The Authority notes that in the past years China PR has been treated as a non-market economy country in anti-dumping investigations by India and other WTO Members.

50. In view of the above position and in the absence of rebuttal of non-market economy presumption by any Chinese exporting company, the Authority considers it appropriate to treat China PR as a non-market economy country in the present investigation and proposes to proceed with para-7 of Annexure-I to the Rules for determination of normal value in case of China PR.

51. Para 7 of Annexure I of the Anti-dumping Rules provide 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.”

52. Since no other reasonable information has been provided by any interested party for determination of Normal Value in China PR, the normal value has been constructed on the basis of the cost of production of the efficient domestic producer in India after making due adjustment for the international prices of major raw material. The Authority has also provided for reasonable profit as per its consistent practice. Accordingly, constructed normal value for Chinese exporters has been worked out as follows:

Constructed Normal Value	DVD-Rs	DVD-RWs
	Rs./pcs	Rs./pcs
Raw Material cost as per International Prices	****	****
Utilities	****	****
SGA including Interest	****	****
Profit	****	****
CNV (Rs/PC)	****	****
CNV USD/ '000 pcs	****	****
Exchange Rate US\$= 54.65 INR		

53. Accordingly, the constructed normal values for China for DVD-Rs and DVD-RWs have been determined as US\$ **** and US\$ **** per thousand pieces respectively.

E.3 Determination of Normal Values in Hong Kong and Taiwan

54. Since none of the producers and exporters in Hong Kong and Chinese Taipei has submitted any evidence with regard to the Normal Values of the subject goods in those countries, the Authority is constrained to determine the normal values in these countries based on best facts available, including the information contained in the petition of the domestic industry. Accordingly, Authority has constructed the normal values in Hong Kong and Chinese Taipei on the basis of the cost of production of the efficient domestic producer in India after making due adjustment for the international prices of major raw materials, as the best information available, with due provision for a reasonable profit. Accordingly, proposed Normal values of the subject goods in Hong Kong and Chinese Taipei have been determined as US\$ **** and US\$ **** per thousand pieces for DVD-Rs and DVD-RWs respectively.

E.4 Export Prices

55. As none of the exporters of the subject countries has provided any information that can be used for determination of the export price, the Authority has determined the export prices for all exporters from subject countries on the basis of CIF prices of imports to India as per DGCI&S data.

56. The authority notes that there is no import of DVD-R from Hong Kong during the POI as per DGCI&S data. Import of DVD-Rs from China PR and Chinese Taipei during the POI was also small. DGCI&S data reports only 1.56 lakh pcs of DVD-Rs were imported from China PR and 10,000 pcs were imported from Chinese Taipei. As far as DVD-RWs is concerned, again there is no import from Hong Kong and DGCI&S data reports that only 2.71 lakh pcs were imported from China PR and 92,000 pcs imported from Chinese Taipei. In the absence of any other credible information the Authority has relied upon these transactions to estimate the export prices from China PR and Chinese Taipei. No export price could be determined in respect of Hong Kong.

57. Export prices from the China PR and Chinese Taipei have been calculated on the basis of CIF prices from the DGCI&S data with applicable adjustments for Ocean freight, Marine insurance, Port expenses, Commission, Inland transportation in the country of export, clearing charges and Bank Charges as per best information available, in the absence of concrete information from the respective exporters in the subject countries, to arrive at the export prices at the ex-works level. Accordingly, export price from these countries have been worked out as follows:

Particulars	Unit	China PR		Taiwan	
		DVD-R	DVD-RW	DVD-R	DVD-RW
Volume of Imports	Lac Pcs	1.56	2.71	0.10	0.92
CIF Value of Imports	Rs. Lacs	8.72	123.30	0.65	34.25
CIF Price	Rs./Pc	5.59	45.50	6.36	37.07
Ocean Freight	Rs./Pc	****	****	****	****
Marine Insurance	Rs./Pc	****	****	****	****
FOB Export Price	Rs./Pc	****	****	****	****
Port Expenses @ 0.50 %	Rs./Pc	****	****	****	****
Inland Freight @ 0.50 %	Rs./Pc	****	****	****	****
Handling charges @ 1%	Rs./Pc	****	****	****	****
Clearing charges @ 1%	Rs./Pc	****	****	****	****
Bank charges	Rs./Pc	****	****	****	****
VAT @ 4%	Rs./Pc	****	****	-	-
Net Export Price	Rs./Pc	3.39	41.31	5.57	35.02
Exchange rate- US\$	INR	54.65	54.65	54.65	54.65
Net Export Price	US\$/'000 Pcs	62.08	755.85	101.97	640.80

E.5. Dumping Margins

58. The normal values so determined for the subject countries, as per the methodology indicated above, have been compared with the respective export prices at the ex-factory level so determined in the foregoing paragraphs, to arrive at the dumping margin for all the producers/exporters in the subject countries as follows:

	China PR	Hong Kong	Taiwan
DVD-Rs			
Constructed Normal Value (US\$)/'000 pcs	****	****	****
Ex-factory Export Price to India (US\$)/'000 pcs	62.08	-	101.97
Dumping margin (US\$)/'000 pcs	****	****	****
Dumping margin (%)	****	****	****
Dumping margin (range %)	100-120%		25-35%
DVD-RWs	PRC	Hong Kong	Taiwan
Constructed normal value (US\$)/'000 pcs	****	****	****
Ex-factory export price to India(US\$)/'000 pcs	755.85	-	640.80
Dumping margin(US\$)/'000 pcs	(****)	-	(****)

	China PR	Hong Kong	Taiwan
Dumping margin (%)	(****%)	-	(****%)
Dumping margin (range %)	(60-70%)		(50-60%)
Weighted Average Dumping Margin for the PUC			
Weighted Average DM US\$/'000Pcs	(****)		(****)
%	(**)		(**)
Dumping margin (range %)	(10-20%)		(50-60%)

59. The above assessment indicates that while the DVD-Rs continue to enter the Indian market, from China PR and Chinese Taipei, at dumped prices, DVD-RWs are entering the Indian market at un-dumped prices. Overall dumping margin for the product as a whole is negative. However, as noted earlier, the volume of imports of the subject goods being low during the POI and considering the fact that the duty was in force during this period, the dumping margin calculated above may not reflect the true picture of the likely scenario if the duties are revoked. Therefore, the Authority has examined the likelihood of continuation or recurrence of dumping of the subject goods in the succeeding paragraphs:

F. Likelihood of Continuation or Recurrence of Dumping

F.1 Views of the Domestic Industry

60. The petitioner domestic industry has submitted that there is a history of dumping of the subject goods from various countries, apart from the countries under investigation in this review. After imposition of definitive duty on the subject goods from the subject countries on 2009 the goods started to be imported from several other countries at dumped prices and the authority conducted a separate investigation against imports of Digital Versatile Disc Recordable (DVD-Rs and DVD-RWs) originating in or exported from Malaysia, Thailand and Vietnam and recommended imposition of anti-dumping duty against imports of product under consideration from Malaysia, Thailand and Vietnam. Definitive antidumping duties were imposed vide notification dated 28th September, 2010. The Authority, thereafter, conducted mid-term review wherein the duty was enhanced against imports of subject goods from Vietnam. The Ministry of Finance imposed the enhanced duty vide notification dated 31st December, 2013.

61. It has been argued that China continues to be one of the largest producers and exporters of DVDs which is evident from their volume of exports to world market. Their capacity and production far exceeds the domestic demand in China. In 2012-13 China exported about 2337.90 Million pieces of Discs to the world market. The prices at which it is being exported to various markets clearly indicate that dumping will continue or intensify if the duties are removed. Taiwan also continues as one of the largest exporters of DVDS to the global market

Chinese export of DVD to World Market 2012-13

	DVDR			DVDRW			DVDR + DVD RW		
Top Countries	Sum of Quantity	Sum of Value (USD)	Average Price USD/ 000 PCs	Sum of Quantity	Sum of Value (USD)	Average Price USD/ 000 PCs	Total Quantity	Sum of Value (USD)	Average Price USD/ 000 PCs
Total Chinese Exports	2281523710	227640705	99.78	56381158	13950436	247.43	2337904868	241591141	103.34
United States	312731248	32482841	103.87	937275	238934	254.92	313668523	32721775	104.32
Brazil	300821245	29825997	99.15	6442723	1599651	248.29	307263968	31425648	102.28
Myanmar	200933450	19444786	96.77	100000	26000	260.00	201033450	19470786	96.85
Nigeria	147778381	13985670	94.64				147778381	13985670	94.64
Chile	135994796	13527776	99.47	1759800	435766	247.62	137754596	13963542	101.37
Netherlands	130150000	13777977	105.86	919800	220823	240.08	131069800	13998800	106.80
Pakistan	71326136	7159586	100.38	1129200	259824	230.10	72455336	7419410	102.40
Panama	63542400	6481785	102.01	60000	14780	246.33	63602400	6496565	102.14
South Africa	56795158	5812963	102.35	970275	239277	246.61	57765433	6052240	104.77
United Kingdom	54526082	5568245	102.12	800840	202589	252.97	55326922	5770834	104.30
Kirghizia	46312500	4695869	101.40	5946970	1445659	243.09	52259470	6141528	117.52
Ecuador	52128700	5240666	100.53				52128700	5240666	100.53
Kenya	38654820	3802405	98.37	1080000	246000	227.78	39734820	4048405	101.89
Vietnam	28092400	2715148	96.65	8961025	2151038	240.04	37053425	4866186	131.33
Taiwan	33912700	3185276	93.93	18424	4583	248.75	33931124	3189859	94.01
Benin	32734656	3025229	92.42				32734656	3025229	92.42
Venezuela	31102115	2991852	96.19				31102115	2991852	96.19
Philippines	31048200	3056309	98.44				31048200	3056309	98.44
Hong Kong	30316400	2932563	96.73	633000	150418	237.63	30949400	3082981	99.61
Mexico	29289000	2878442	98.28				29289000	2878442	98.28
Uruguay	28233400	3081005	109.13				28233400	3081005	109.13
Sri Lanka	22264480	2186406	98.20	1040320	262406	252.24	23304800	2448812	105.08
Malaysia	20123638	1972862	98.04	2959900	715076	241.59	23083538	2687938	116.44
Poland	20415200	1989325	97.44	214200	50725	236.81	20629400	2040050	98.89
Germany	19372300	2007793	103.64	596470	154222	258.56	19968770	2162015	108.27
Tadzhikistan	19520944	2037718	104.39	258000	65400	253.49	19778944	2103118	106.33
United Arab Emirates	18371100	1799457	97.95	2000	480	240.00	18373100	1799937	97.97
Ukraine	17768760	1742725	98.08				17768760	1742725	98.08

Data Source: China Customs data

62. It has been further argued by the domestic industry that Ritek is one of the known major exporters of the product under consideration having production facilities in Taiwan, China and Vietnam. After imposition of anti dumping duty and with a view to circumvent anti dumping duty on imports from Taiwan, Ritek set up some manufacturing facilities in Vietnam and started dumping from Vietnam. Ritek did not cooperate with the Designated Authority when the investigations were being conducted in respect of imports from Taiwan. However, when the Designated Authority initiated investigations in respect of Vietnam, Ritek responded and participated fully in the investigations.

Significantly low quantum of anti dumping duty was imposed on Ritek in respect of imports from Vietnam. The company intensified dumping from Vietnam and continued to export from Vietnam. Imports from Taiwan and China remained very low in volumes during this period. The domestic industry filed petition for review in respect of imports from Vietnam in view of intensified dumping. The company did not respond to the midterm review. The Designated Authority, after conducting detailed investigation, recommended imposition of enhanced duty on imports from Vietnam, which was subsequently imposed by Ministry of Finance. Under these circumstances, in case the present anti dumping duty is removed from Taiwan and China, the company will shift back dumping from Taiwan or China, wherever duty is removed. Further, the price at which the company was exporting the goods from Vietnam during the present POI is clearly suggestive of the price at which the company would dump from Taiwan and China in case of cessation of anti dumping duty.

63. With regard to Hong Kong, the domestic industry has submitted that though there is no import from Hong Kong during the period under investigation there is a strong likelihood of dumping recurring from Hong Kong. It has been argued that though there is no full-fledged production facility in Hong Kong, China Customs data shows that the product is being imported from China PR into Hong Kong in significant volumes at prices much below the estimated normal value in China.

Exports from China PR to Hong Kong

Particulars	Unit	DVD-R	DVD-RW
Imports	Pcs	21,044,200	3,00,000
Export price	US\$/000Pcs	93.25	224.82

64. The domestic industry argues that it is evident from the volumes of exports to Hong Kong that these imports from China are intended for further export. The volumes are too high to be consumed by users in Hong Kong – more so given the nature of the product and size of the Country. A report issued by the Government of Hong Kong, Census and Statistics Department states that 95% of total electronics exports from Hong Kong were re-exports. In other words, the goods were imported into Hong Kong (significant share from China) and then exported to several countries. While the report encompasses all electronics, it is submitted that this information supports the claim that there is, in general, a high tendency for re-export from Hong Kong in respect of electronics. Even otherwise, it is a general knowledge that Hong Kong is a significant trading hub – importing the goods from various countries and exporting to various countries. The data clearly shows significant imports of DVDs into Hong Kong from China, which has been thereafter exported from Hong Kong to other countries.

Therefore, in the event of revocation of duties, these exports will be diverted to India. This establishes clear likelihood of intensified dumping in the event of revocation of anti dumping duty.

65. Domestic industry further argues that all the investigations in the past concluded on DVDs have shown significant dumping of these products thereby establishing history of dumping by global producers.

SI No	Product	POI	Country	Dumping margin %	ADD US\$/1000 pcs
1	DVD-1	April 2006 to June 2007	China PR	64.72	68.11 - 48.11
			Hong Kong	62.96	66.72
			Chinese Taipei	63.50	45.63
2	DVD-2	April 2008 to March 2009	Malaysia	34.05	35.92
			Thailand	22.51	25.98
			Vietnam	64.09	29.75 - 50.51
3	DVD-3 (MTR)	April 2011 to March 2012	Vietnam	105-115	73.01

66. Therefore, in the event of cessation of anti-dumping duty, these exporters will get a greater opportunity to dump the product under consideration into India, taking away the market share of the domestic industry. The remaining market opportunity for the domestic industry, if taken away by the dumped imports, the Indian producers would be left with no options but to suffer heavy losses to sustain in the market or to close their plants.

67. It has been argued that producers of subject goods in subject countries maintain huge capacities. The domestic industry has submitted that as per the import data, there are almost 178 producers/exporters of product under consideration in China alone. Domestic industry has provided the following information on the estimated capacities of some of producers in China PR and Chinese Taipei to illustrate the fact of surplus capacities in these countries enabling them to dump the goods in the event of revocation of the duty though no direct evidence has been provided:

SN	Name	Capacity/Production (C/P)
China		
1.	Guangdong New Face Laser Technology Co. Ltd	100 million pieces per month (C)
2.	Shanghai Suncd Electronics Technology Co. Ltd	300,000 CD ROMs and 160,000 DVD5s, DVD9s and VCDs daily (P)
3.	Shantou S.E.Z. Wo Hing Radio & Vedeo Co. Ltd	8 Million CDR and 15 million of DVDR every month. 16 optical disc production lines.
4.	Guangxing Trading Group Co. (Macao)	5,000,000 Piece/Pieces per Month
5.	Guangzhou Banana Digital Company Limited	140,000,000 Pcs/year (P)
6	Shenzhen Guanyu Opto Electronics Technology Co., Ltd.	20 million pieces per month (P)

SN	Name	Capacity/Production (C/P)
7	Shenzhen Topford Development Limited	20 Million Pieces (C)
Taiwan		
8	Mintech Technology Co., Ltd.	500000 Piece/Pieces per Month 1 million/month
9	Vanprasth Corporation.	US\$10 Million - US\$50 Million total annual sales volume
10	El Mejor Technology Co., Ltd.	50000000 Piece/Pieces per Month
11	Melody Technology Corp.	US\$10 Million - US\$50 Million total annual sales volume

68. As far as Hong Kong is concerned, the domestic industry has submitted that the export from Hong Kong is nothing but the re-exports of the subject goods from China and Taiwan. Therefore, in case of revocation of anti dumping duty on Hong Kong, the volume of imports of the subject goods from China and Taiwan is bound to increase further via Hong Kong.

69. Domestic industry has further argued that export sale of the product under consideration from subject countries to world is significant. Majority of the producers in the subject countries have been exporting the product under consideration rather than selling in their respective domestic markets; which clearly establishes 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. Domestic industry has provided the following information to show that the percentage of exports in total turnover by some of the major exporters in the subject countries for both CDs and DVDs, which indicates clear export orientation of these companies and clear indication of recurrence of dumping if duties are revoked:

Table: Export Orientation

Name	Export Percentage
China	
Shantou S.E.Z. Wo Hing Radio & Vedeo Co. Ltd	98%
Guangdong Yuedong Magnetolectric Co., Ltd.	80%
Shabghai Suncd Electronics Technology Co. Ltd	21-30%
Guangxing Trading Group Co. (Macao)	61-70%
Guangzhou Banana Digital Company Limited	41-50%
Taiwan	
Mintech Technology Co., Ltd.	91-100%
Vanprasth Corporation.	91-100%
El Mejor Technology Co., Ltd.	71-80%
Melody Technology Corp.	61-70%

70. The petitioner domestic industry has further submitted that 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 starts from another set of countries. This shift in imports clearly shows that the importers

are deliberately and consciously resorting to dumping and therefore, dumping will recur if duties are revoked.

71. The domestic industry further argues that there is a substantial import of the subject goods from UAE during the injury investigation period and no anti dumping duty is in force against these imports. Considering the production capacity and consumption in UAE, it appears that exports from UAE constitute exports of goods imported into UAE. The petitioner further alleges that the entire imports entering the UAE market are of Chinese origin which is being re-exported to India, possibly after some reprocessing, clearly indicating that Chinese exporters are routing their exports through UAE in order to avoid payment of anti-dumping duty which is evident from the following figures:

	Volume (Pcs)	Value (USD)
China exports to UAE-2012	18,371,100	1,799,457
UAE exports to India-2012	17,836,847	2,173,853

F.2 Views of other interested Parties

72. No submission has been made on behalf of any other interested party with regard to likelihood of continuation or recurrence of dumping.

F.3 Examination by the Authority

73. The Authority notes that continuation of dumping has been established in case of import of DVD-Rs from China PR and Chinese Taipei as recorded in the previous section though the volume of imports has dropped significantly during the investigation period. Though there is no import from Hong Kong during the investigation period the Authority is required to examine the likelihood scenario in the event of removal of duty on Hong Kong. In this context the domestic industry has made out a case that goods of Chinese and Taiwan origin are likely to enter Indian market through Hong Kong at dumped prices if the duty is revoked against that country on the ground of zero imports. There has been substantial import of the subject goods into Hong Kong both from China and Taiwan during the POI.

74. As far as DVD-RWs are concerned, there is no current dumping though the volume of imports has significantly increased during the investigation period. The domestic industry has clearly indicated that DVD-RWs are being imported at significantly higher prices at present and is not affecting them. It has been submitted that since own production volume of domestic industry is extremely low compared to production and sale of DVD-Rs, import of DVD-RWs will not pose any threat to them in terms of dumping and injury and therefore, investigation against this product may be dropped.

75. The facts available before the Authority and the submissions made by the domestic industry indicates that there is a history of dumping of the subject goods and in the past several investigations have established that the product is highly susceptible to dumping. It has also been established that while there is a declining trend in global demand for the product under consideration significant excess production capacities exist in China and Chinese Taipei for production of the subject goods. Therefore, in a situation of significant demand supply mismatch there is a very high possibility of the exporters in these two countries resorting to dumping in order to maintain production and minimising losses. Export orientation of the exporters in these countries, volume of exports from these countries and the price at which the goods are being exported as well as past history of dumping would also lead to a similar conclusion. The Authority also notes that export volume of subject goods from China and Chinese Taipei to certain countries and export from those countries to India are significant to indicate some transshipment issues. The prices are also comparable to the prices at which the goods are being exported to India. Therefore, in the event of revocation of duty on China and Chinese Taipei such goods would most likely be diverted to India directly from the subject countries at dumped prices.

76. As far as Hong Kong is concerned, it is true that there has been no export of the subject goods from this country during the injury investigation period. However, considering the fact that Hong Kong does not have any significant production facility of the subject goods within its territory but had exported substantial quantities to India in the past at dumped prices it is likely that the goods exported in the past from Hong Kong were of other origin being re-exported from Hong Kong as substantial quantities are being imported into Hong Kong from China and Taiwan as per the information submitted by the domestic industry. That being the case, if the duty is removed on exports from Hong Kong it is most likely that goods of Chinese or Chinese Taipei origin will again start entering Indian market through Hong Kong at dumped prices.

77. In view of the above and in the absence of any submissions from other interested parties contesting these arguments the Authority concludes that dumping of the subject goods is likely to continue or recur from the subject countries if duties are removed.

G. Determination of Injury and Causal Link; and Likelihood of Continuation or recurrence of Injury to the domestic industry

G.1 Legal Position

78. As stated in the previous sections in a sunset review investigation, with regard to injury examination the Authority is required to examine:

- Whether the domestic industry continues to suffer injury due to dumped imports and if so, whether injury to the domestic industry is likely to continue if the duties are revoked; or
- In cases where the domestic industry has not suffered continued injury, whether injury to the domestic industry is likely to recur in the event of revocation of anti dumping duties.

79. Therefore, the Authority has first examined whether the domestic industry continues to suffer material injury on account of dumped imports from the subject countries. Thereafter, the Authority has also examined the likelihood of continuation or recurrence of injury to the domestic industry in the event of revocation of the duties from the subject countries. Examination of material injury to the domestic industry is in accordance with the manner as laid down under Article 3 of the AD Agreement and Annexure II to the AD Rules, 1995.

G.2 Examination of Current injury to the domestic industry and Causal Links

G.2.1 Submissions by the domestic industry

80. The domestic industry has *inter alia* made the following submissions with regard to the injury and causal link:
- i. That there is continued dumping of the product under consideration from China PR and Chinese Taipei, though the volume of dumped imports has declined as a result of current anti-dumping duties. Dumping of the product under consideration is likely to intensify from these countries should the current anti-dumping duty be revoked.
 - ii. Though there is no import of the subject goods from Hong Kong during the injury determination period, dumping is likely to recur from Hong Kong once the present duty ceases as Hong Kong imports significant volumes of the product under consideration from China and Taiwan, without such high consumption within that country.
 - iii. Even though the domestic industry was able to improve its production and sales volumes to some extent, the increase was disproportionate to the increase of demand in India. Further, domestic industry was unable to earn profits in the current period even after imposition of anti-dumping duty which indicates that the domestic industry has not yet recovered from the past ill effects of dumping and revocation of anti-dumping duty shall intensify injury to the domestic industry in future.

- iv. Performance of the domestic industry, in terms of profits, return on investments, inventories etc., has deteriorated in the current Period of Investigation.
- v. Despite anti-dumping duty being in force, the profits of the domestic industry have declined. Should the current anti dumping duties cease, the domestic industry would be forced to sell its product at a price comparable to import prices. This would mean significant financial losses, negative return on investment and significant cash losses.
- vi. Domestic Industry has been prevented from utilizing its capacities to the fullest extent.
- vii. Both cost of production and selling prices declined over the period. The decline in the selling price is greater than the decline in the cost of production, resulting in losses.
- viii. The production, sales and capacity utilization of the domestic industry has not shown significant improvements. However, the profitability of the domestic industry has declined.
- ix. Despite rising demand and such low prices being offered by the domestic industry due to significant price undercutting of the dumped imports, the inventories have increased.
- x. The imports are undercutting the domestic prices. As a result, the domestic industry is faced with price depression in the market. This would result in significant financial losses to the domestic industry in the event of revocation of anti dumping duties.
- xi. That in the absence of anti dumping measure, the likelihood of recurrence of dumping and injury cannot be ruled out.

G.2.2 Submissions by producers/exporters/importers and other interested parties

81. None of the producers/exporters/importers/other interested parties has made any submissions with regard to injury to the domestic industry.

G.2.3 Examination by the Authority

82. In the light of the various submissions made by the domestic industry the Authority proceeds to examine the current injury, if any, to the domestic

industry before proceeding to examine the likelihood aspects of injury on account of dumped imports from the subject countries.

83. Rule 11 of Anti-dumping 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 of 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.

84. For the examination of the impact of the dumped imports on the domestic industry in India, the Authority considers 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. in accordance with Annexure II of the Rules *supra*.

85. For the purpose of current injury analysis, the Authority has examined the volume and price effects of dumped imports of the subject goods on the domestic industry and its effect on the prices and profitability of the domestic industry to examine the existence of injury and causal links between the dumping and injury, if any.

86. The authority notes that the subject goods are at present attracting anti dumping duties on imports from Malaysia, Thailand and Vietnam in addition to the subject countries. The authority has considered the volume and price impact of imports from all these countries along with other sources for determination of injury and causal link, including the likelihood scenario, if the anti dumping duties are withdrawn in respect of the subject countries. For the purpose of this review the injury to the domestic industry, on account of dumped imports of the subject countries, has been assessed cumulatively.

87. Accordingly, the volume and price effect of dumped imports have been examined to assess the impact on the domestic industry as follows:

G.4 VOLUME EFFECT

i. Import Volume & Share of the subject countries

88. For examination of the volume and prices of the imports from various sources the authority has relied upon the transaction wise data from DGCI&S. The summarised import data for DVD-Rs & DVD-RWs during the injury period are as follows:

Particulars	Unit	2009-10	2010-11	2011-12	2012-13 (POI)	2013-14 (Post POI)
DVD-Rs						
Subject Countries (Dumped Imports)	Lac.Pcs	7.20	24.16	2.04	1.66	0.75
China PR	Lac.Pcs	6.60	20.27	2.04	1.56	0.75
Hong Kong	Lac.Pcs	-	2.40	-	-	-
Taiwan	Lac.Pcs	0.60	1.49	-	0.10	-
Countries already attracting duties	Lac.Pcs	729.66	336.11	271.99	121.50	43.01
Other Countries	Lac.Pcs	96.35	282.89	295.85	174.08	189.43
UAE	Lac.Pcs	91.10	225.94	249.81	160.92	189.40
Other than UAE	Lac.Pcs	5.25	56.95	46.04	13.16	0.03
Total Imports	Lac.Pcs	833.22	643.16	569.88	297.24	233.18
DVD-RWs						
Subject Countries	Lac.Pcs	2.48	6.66	2.47	3.63	1.67
China PR	Lac.Pcs	1.55	5.67	0.48	2.71	0.29
Hong Kong	Lac.Pcs	-	-	-	-	-
Taiwan	Lac.Pcs	0.93	0.99	1.99	0.92	1.38
Countries already attracting duties	Lac.Pcs	0.20	0.75	0.37	0.36	2.05
Other Countries	Lac.Pcs	8.86	4.56	1.95	1.68	0.37
UAE	Lac.Pcs	0.08	-	-	-	-
Other than UAE	Lac.Pcs	8.79	4.56	1.95	1.68	0.37
Total Imports	Lac.Pcs	11.54	11.97	4.80	5.67	4.09
DVD-Rs + DVD-RWs						
Subject Countries	Lac.Pcs	9.68	30.83	4.51	5.30	2.42
China PR	Lac.Pcs	8.15	25.94	2.52	4.27	1.04
Hong Kong	Lac.Pcs	-	2.40	-	-	-
Taiwan	Lac.Pcs	1.53	2.49	1.99	1.03	1.38
Countries already attracting duties	Lac.Pcs	729.86	336.86	272.36	121.86	45.06
Other Countries	Lac.Pcs	105.22	287.45	297.80	175.76	189.80
UAE	Lac.Pcs	91.18	225.94	249.81	160.92	189.40
Other than UAE	Lac.Pcs	14.04	61.51	47.99	14.84	0.40
Total Imports	Lac.Pcs	844.76	655.13	574.68	302.92	237.27

89. The above data indicates that while there are import of DVD-Rs from China PR and Chinese Taipei, there is no import from Hong Kong during the injury examination period. As far as DVD-RWs is concerned there has been some

import from China PR and Chinese Taipei during the injury period and POI but no imports from Hong Kong. The Authority notes that out of two product types considered in this investigation current dumping margin in respect of DVD-Rs is positive while for DVD-RWs it is negative. Therefore for the purpose of assessment of current injury the import volume of DVD-Rs alone is being treated as dumped imports.

90. The authority notes that anti dumping duties are in force against import of the subject goods from a number of other countries and the import data above indicates that the imports from those countries also exhibit a steady decline. However, there is significant import from UAE, during the injury period and POI, at substantially low prices. The petitioner has submitted that UAE does not have significant production capacity of the subject goods and therefore, it is most likely that the goods of other origins are being transhipped through UAE. It has also been submitted that the imports from UAE are at dumped prices and the domestic industry had earlier filed a petition for initiating an investigation against UAE for alleged dumping from that country.

ii. Demand and Market Share

91. The demand and market share of the domestic industry and the subject countries in the subject goods in India has been assessed taking into account the production and sales of the domestic industry and imports.

	Unit	2009-10	2010-11	2011-12	2012-13 (POI)	2013-14 (Post POI)
Demand DVD-Rs						
Sales of Domestic Industry	Lac.Pcs	****	****	****	****	****
	Indexed	100	95	94	77	71
Sales of Other Indian Producers	Lac.Pcs	-	****	****	****	****
	Indexed		100	198	163	149
Subject Countries	Lac.Pcs	7.20	24.16	2.04	1.66	0.75
Countries already attracting duties	Lac.Pcs	730	336	272	122	43
Other Countries	Lac.Pcs	96	283	296	174	189
Total Demand/Consumption	Lac.Pcs	****	****	****	****	****
	Indexed	100	99	103	82	75
Demand DVD-RWs						
Sales of Domestic Industry	Lac.Pcs	****	****	****	****	****
	Indexed	100	61	178	50	45
Sales of Other Indian producers	Lac.Pcs	-	****	****	****	****
	Indexed		100	587	166	147
Subject Countries	Lac.Pcs	2.48	6.66	2.47	3.63	1.67
Countries already attracting	Lac.Pcs	0.20	0.75	0.37	0.36	2.05

	Unit	2009-10	2010-11	2011-12	2012-13 (POI)	2013-14 (Post POI)
duties						
Other Countries	Lac.Pcs	8.86	4.56	1.95	1.68	0.37
Total Demand/Consumption	Lac.Pcs	****	****	****	****	****
	Indexed	100	88	110	53	42
Demand DVD-Rs + DVD-RWs						
Sales of Domestic Industry	Lac.Pcs	****	****	****	****	****
	Indexed	100	95	94	77	71
Sales of Other Indian Producers	Lac.Pcs	-	****	****	****	****
	Indexed		100	198	163	149
Subject Countries	Lac.Pcs	10	31	5	5	2
Countries already attracting duties	Lac.Pcs	730	337	272	122	45
Other Countries	Lac.Pcs	105	287	298	176	190
Total Demand/Consumption	Lac.Pcs	****	****	****	****	****
	Indexed	100	99	103	82	75

92. The Authority notes that, during the period of investigation the demand and sales of domestic industry for DVD-Rs have remained more or less at the same level except the POI. However, for DVD-RWs there is a significant drop in demand as well as sales of the domestic industry during the POI after a growth in demand and sales in the previous year. Volume of imports of DVD-Rs from the subject countries have declined over the years which could be due to the impact of antidumping duty in force. After examining the general trend in demands the Authority has examined the trend in market share of various players in the domestic market.

	Unit	2009-10	2010-11	2011-12	2012-13 (POI)	2013-14 (Post POI)
Market Share in Demand DVD-Rs						
Sales of Domestic Industry	%	****	****	****	****	****
	Indexed	100	96	91	94	95
Sales of Other Indian Producers	%	-	****	****	****	****
	Indexed		100	190	196	197
Subject Countries	%	0.11	0.36	0.03	0.03	0.01
Countries already attracting duties	%	10.81	5.03	3.91	2.18	0.85
Other Countries	%	1.43	4.23	4.25	3.13	3.76
Market Share in Demand DVD-RWs						
Sales of Domestic Industry	%	****	****	****	****	****
	Indexed	100	70	162	95	106

	Unit	2009-10	2010-11	2011-12	2012-13 (POI)	2013-14 (Post POI)
Sales of Other Indian Producers	%	-	****	****	****	****
	Indexed		100	463	272	304
Subject Countries	%	12.47	38.13	11.32	34.65	19.83
Countries already attracting duties	%	0.99	4.28	1.70	3.43	24.40
Other Countries	%	44.57	26.09	8.92	16.02	4.45
Market Share in Demand DVD-Rs + DVD-RWs						
Sales of Domestic Industry	%	****	****	****	****	****
	Indexed	100	96	91	94	95
Sales of Other Indian Producers	%	-	****	****	****	****
	Indexed		100	190	196	198
Subject Countries	%	0.14	0.46	0.06	0.10	0.05
Countries already attracting duties	%	10.78	5.03	3.90	2.19	0.89
Other Countries	%	1.55	4.29	4.26	3.15	3.76

93. The Authority notes that the market shares of the domestic industry for DVD-Rs & DVD-RWs have substantially decreased during the POI as compared to the base year. The market shares vacated by the petitioner domestic industry have been occupied by the other Indian producers and imports from countries not attracting antidumping duty. The volume of import of DVD-Rs from the subject countries and its market share during the injury investigation period is insignificant. But the import of DVD-RWs from the subject countries has a significant market share in demand during the injury investigation period though total demand of DVD-RWs is only a fraction of the demand for DVD-Rs in India.
94. The Authority notes that since the cumulative imports from the subject countries are very insignificant, the injury examination in terms of volume parameters for assessing the current injury to the domestic industry will be misleading and inappropriate. This being a sunset review investigation the volume of import during the injury investigation period does not reflect the true picture of the likely situation of imports and condition of the domestic industry in the event of revocation of the duty.

G.5 PRICE EFFECT

I. Price effect of dumped imports and impact on domestic industry

95. The impact on the prices of the domestic industry on account of dumped imports of the subject goods from the subject countries have been examined with reference to price undercutting, price underselling, price suppression and

price depression. For the purpose of this analysis the cost of production, net sales realization (NSR) and the non-injurious price (NIP) of the domestic industry have been compared with landed value of dumped imports of subject goods from the subject countries.

96. In determining the net sales realization of the domestic industry, taxes, rebates, discounts and commission incurred by the domestic industry have been adjusted. The price underselling is an important indicator of assessment of injury; thus, the Authority has worked out a non-injurious price and compared the same with the landed value to arrive at the extent of price underselling. The non-injurious price has been evaluated for the domestic industry as per Annexure III to the Rules as the consistent practices of the Authority by appropriately considering the cost of production for the product under consideration during the POI. The position is as follows:

II. Price Undercutting

97. The Authority has analyzed price effect of dumped imports and derived price undercutting with and without anti-dumping duty.

	Unit	2009-10	2010-11	2011-12	2012-13 (POI)	2013-14 (Post POI)
DVD-Rs						
Landed price of imports	Rs/Pc.	5.01	5.21	3.42	5.69	1.53
	Indexed	100	104	68	114	31
Net Selling Price	Rs/Pc.	****	****	****	****	****
	Indexed	100	106	119	122	118
Price Undercutting	Rs/Pc.	****	****	****	****	****
	Indexed	100	131	822	250	1,339
Price Undercutting (%)	%	****	****	****	****	****
Undercutting Range	%	0-10%	5-15%	40-50%	10-20%	70-80%
Undercutting With ADD						
Landed price of imports	Rs/Pc.	****	****	****	****	****
	indexed	100	101	81	113	68
Net Selling Price	Rs/Pc.	****	****	****	****	****
	indexed	100	106	119	122	118
Price Undercutting	Rs/Pc.	(****)	(****)	(****)	(****)	****
	indexed	(100)	(91)	(11)	(97)	23
Price Undercutting (%)	%	(****)	(****)	(****)	(****)	****
Undercutting Range	%	(50-60%)	(40-50%)	(0-10%)	(40-50%)	5-10%

	Unit	2009-10	2010-11	2011-12	2012-13 (POI)	2013-14 (Post POI)
DVD-RWs						
Landed price of imports	Rs/Pc.	34.97	33.68	32.90	43.79	25.72
	indexed	100	96	94	125	74
		****	****	****	****	****
Net Selling Price	Rs/Pc.					
	indexed	100	156	104	146	157
Price Undercutting	Rs/Pc.	(****)	(****)	(****)	(****)	****
	indexed	(100)	(42)	(85)	(106)	1
Price Undercutting (%)	%	(****)	(****)	(****)	(****)	****
Undercutting Range	%	(105-115)	(25-35)	(85-95)	(75-85)	0-5
Undercutting with ADD						
Landed price of imports	Rs/Pc.	38.11	36.77	35.84	47.39	29.74
	Indexed	100	96	94	124	78
		****	****	****	****	****
Net Selling Price	Rs/Pc.					
	Indexed	100	156	104	146	157
Price Undercutting	Rs/Pc.	(****)	(****)	(****)	(****)	(****)
	Indexed	100	51	87	107	18
Price Undercutting (%)	%	(****)	(****)	(****)	(****)	(****)
Undercutting Range	%	(125-135)	(35-45)	(100-110)	(90-100)	(10-20)
DVD-Rs + DVD- RWs						
Landed price of imports	Rs/Pc.	12.69	11.88	19.58	31.84	18.21
	Indexed	100	94	154	251	143
Net Selling Price	Rs/Pc.	-	-	-	-	-
Price Undercutting	Rs/Pc.	(****)	(****)	(****)	(****)	****
	Indexed	(100)	(33)	(164)	(296)	37
Price Undercutting (%)	%	(****)	(****)	(****)	(****)	****
Undercutting Range	%	(20-30)	(0-10)	(25-35)	(45-55)	20-30
Undercutting with ADD						
Landed price of imports	Rs/Pc.	15.96	15.02	22.81	35.53	22.27
	Indexed	100	94	143	223	140
Net Selling Price	Rs/Pc.	-	-	-	-	-
Price Undercutting	Rs/Pc.	(****)	(****)	(****)	(****)	(****)
	Indexed	(100)	(60)	(135)	(218)	(31)
Price Undercutting (%)	%	(****)	(****)	(****)	(****)	(****)
Undercutting Range	%	(70-80)	(40-50)	(55-65)	(75-85)	(0-10)

98. The Authority notes that without ADD, the landed value of dumped imports of DVD-Rs from the subject countries have been undercutting the selling prices the domestic industry during the entire injury period and the post POI period. However, with ADD the price undercutting of DVD-Rs has been negative during the injury period. But in the post POI period the undercutting is positive. The Authority further notes that the price undercutting has been negative even without ADD in the case of DVD-RWs. However, post POI data shows positive undercutting for both DVD-Rs and DVD-RWs without ADD indicating that removal of duty cover may undercut the prices significantly.

III. Price Suppression, Depression

99. To examine the price suppression and depression effects of the dumped imports from subject countries on the domestic prices, the trend of net sales realization of the domestic industry has been compared with the cost of sales.

		Rs./Pc			
DVD-Rs	Unit	2009-10	2010-11	2011-12	2012-13 (POI)
Cost of Sales	Rs/Pc	****	****	****	****
	Indexed	100	110	120	149
Net Sales Realisation	Rs/Pc	****	****	****	****
	Indexed	100	106	119	122
DVD-RWs					
Cost of Sales	Rs/Pc	****	****	****	****
	Indexed	100	189	222	454
Net Sales Realisation	Rs/Pc	****	****	****	****
	Indexed	100	156	104	146

100. The Authority notes from the above data that the domestic industry was not in a position to increase the selling price of DVD-Rs in proportion to the increase in cost of sales during the injury period showing price suppression. However, DVD-RWs are selling above cost of sales though the price rise is not commensurate with the rise in cost of sales.

IV. Price Underselling

Particulars	Unit	DVD-R	DVD-RW
		2012-13	2012-13
Non Injurious Price (NIP)	(Rs/Pc)	****	****
Landed Value without ADD	(Rs/Pc)	5.69	43.79
Price under selling	(Rs/Pc)	****	(****)
Price under selling (%)	%	****%	(****)%
Price under selling range	%	20-30%	(60-70%)
Landed Value with ADD	Rs/Pc	9.40	47.39
Price under selling with ADD	Rs/Pc	(****)	(****)

101. The above data shows that the landed value of imports of DVD-Rs from the subject countries has been lower than the non-injurious price of DVD-Rs of the domestic industry during the POI. However, the landed value of DVD-Rs after including the applicable antidumping duty during the POI was above the NIP. With respect to imports of DVD-RWs from the subject countries the price underselling has been found to be negative.

G.6 Examination of other economic parameters of the domestic industry

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

103. Various injury parameters as above relating to the domestic industry have been examined as follows:

a. Actual and potential impact on capacity, production, capacity utilization and sales

104. The table below shows the capacity, production, capacity utilization and sales of the domestic industry for the product under consideration during the injury investigation period.

Particulars DVD-Rs + DVD- RWs	Unit	2009-10	2010-11	2011-12	2012-13 (POI)	2013-14 (Post POI)
Capacity	Lac Pcs	****	****	****	****	****
	Indexed	100	99	98	97	90
Production	Lac Pcs	****	****	****	****	****
	Indexed	100	100	92	72	63
Capacity Utilization	%	****	****	****	****	****
	Indexed	100	100	94	75	69
Sales Volume						
Domestic	Lac Pcs	****	****	****	****	****

	Indexed	100	95	94	77	71
Export	Lac Pcs	****	****	****	****	****
	Indexed	100	116	120	74	72
Total sales	Lac Pcs	****	****	****	****	****
	Indexed	100	107	109	75	72

105. The above data indicates that though the capacity of the domestic industry shows a marginal decline during the injury investigation period, the production and sales (both domestic and exports) have fallen significantly during the POI thereby affecting the capacity utilization, which has fallen below 60% from a level of above 75% in previous years.

b. Actual and potential impact on profit/loss, cash flow, return on capital employed, inventory, productivity

106. Performance of the domestic industry with respect to the product under consideration has been examined in terms of the above parameters as follows:

Profit/loss, cash flow, ROCE, inventory and productivity					
Particulars-	2009-10	2010-11	2011-12	POI	Post-POI
Net profits/(loss) (Rs Crore)	(****)	(****)	(****)	(****)	(****)
Indexed	(100)	(100)	(85)	(208)	(233)
Net profits/(loss) (Rs. per piece)	(****)	(****)	(****)	(****)	(****)
	(100)	(100)	(85)	(255)	(314)
Cash profits (Rs. Crore)	****	****	****	(****)	(****)
	100	100	142	(52)	(252)
ROCE					
Capital employed (Rs. Crore)	****	****	****	****	****
	100	100	80	78	78
Return on capital employed (%)	(****)	(****)	(****)	(****)	(****)
	(100)	(100)	(84)	(362)	(390)
Inventory (Million pieces)	****	****	****	****	****
	100	100	58	70	56
Inventory in No. of days of sales	78.47	86.29	67.41	79.98	82.05
	100	100	78	93	95
Number of employees (No.)	1703	1788	2067	1998	1998
	100	100	116	112	112
Productivity per employee (million piece per employee)	8.98	8.51	6.79	5.55	4.81
	100	100	80	65	57
Total wages paid (Rs. Crore)	****	****	****	****	****
	100	100	119	117	89

107. The Authority notes that changes in prices, sales volumes or costs may reflect in changes in the profit/loss. The effect of dumped imports can be reflected in any or all of these variables. The above data indicates that the net profit of the Company has declined steadily during the injury investigation period which is also reflected in the profit per piece of the subject goods during the same period. There has been a negative return on capital employed during the same period, which has worsened further during the POI. The cash profit from the product under consideration was positive throughout but has turned negative in the POI indicating signs of material injury.
108. Other physical parameters of the domestic industry as above indicates that there is a diminishing trend in the inventory built up at the end of the financial years except during the POI which indicates adverse inventory build up. However, when considered over the whole injury period and POI, these data may not be considered to show adverse effects through built-up of excessive inventory. The indicator presented as 'number of days sales' also shows a similar trend.
109. Productivity is the relationship between the output of goods and inputs of the resources used to produce them. Productivity is therefore affected by changes in output levels. Data demonstrates that there was a drop in production levels as well as a drop in capacity utilization. The Authority notes that the productivity per employee has declined sequentially during 2009-13; and the plunge continues during post-POI period (2013-14). The wages paid by the domestic industry during POI, has declined as compared to the base period.
110. Generally, indications of negative effects on growth include the cancellation or delay of plans for expansion of manufacturing capacity or development of new facilities. The petitioner's claim regarding negative effects on growth is not supported by evidence such as documented plans for execution of a particular facility that had to be put on hold due to effects of dumped imports. The Authority notes that there is no such evidence forthcoming to conclude negative effects on growth. However, there were overall decline in production and sales of the domestic industry indicating negative growth of the sector.

H. Causal Link

111. The Rules mandates the Authority to examine the causal links between the dumped imports and the injury caused to the domestic industry on account of the dumped imports. In the absence of any argument put forth by any other interested party the Authority has examined whether other known factors could have caused injury to the domestic industry. The following issues have been

brought to the notice of the authority and examined as per information available for the non-attribution analysis:

- i. **Imports from Third Countries:** - The Authority notes that while imports of product under consideration from the subject countries and other countries attracting antidumping duty have significantly dropped during the injury investigation period, imports of DVD-Rs from UAE has increased substantially during this period as given in the table below. There is no import of DVD-RWs from UAE. The price at which the DVD-Rs are being imported from UAE could have been one of the reasons for the decrease in prices of the domestic industry. However, as noted in para 71 above the domestic industry has contended that the imports from UAE are basically re-exports of goods originating from China and Taiwan as UAE does not have capacity to produce and export such high volumes.

DVD-Rs Imports from UAE	Units	2009-10	2010-11	2011-12	2012-13 (POI)	2013-14 (Post POI)
Volume of imports	Lac Pieces	91.10	225.94	249.81	160.92	189.40
Price	Rs/Pc	4.66	4.80	4.99	6.59	6.75

- ii. **Contraction in Demand:-** The Authority notes that there was a marginal decline in demand of the products in the domestic market since the base year and the contraction appears to be more prominent during the POI. The Authority has examined whether contraction in demand has caused the injury to the domestic industry. The Petitioner has submitted that the decline in production and sales of the petitioner is largely on account of decline in export sales and domestic sales were still quite stable. It has been argued that demand for the product under consideration has declined in the global market as well. Domestic industry submits that the product continues to have significant demand in the country and shall continue to have significant demand in future as well. Though it is generally apprehended that the demand for DVD is in the declining path due to increasing use of USBs/pen drives and other data storage devices such as blue rays and other internet platforms for entertainment related requirements, DVD as a storage media device is likely to last for several years, and certainly for more than a decade. The petitioner has also referred to the decision of the European Commission in the matters of Certain Graphite Electrode Systems originating in India wherein the issue of decline in demand was discussed. It was concluded in that matter that the domestic industry needs to be protected particularly when the demand has declined.

This issue has been examined in the context of non-attribution analysis to see whether the decline in the demand in the country is due to advent of other technologies and therefore, a cause of injury to the domestic industry. Examination of information provided by the domestic industry indicates that though other data storage and reuse devices and platforms are now available and may be making a dent on the demand for DVDs there is no imminent threat to this product segment due to various reasons as follows:

- USB/Pen drives are used only in those applications where a consumer has to write contents multiple times. Use of USB/Pen drive in those applications instead of DVD-Rs, where the consumers would write only once, is a gross underutilization of a pen drive. DVD-Rs are much more cost effective as it costs only Rs. 15 (to the end consumer) as compared to a pen drive typically costing more than Rs. 300. It has been submitted that Pen drive is essentially required for frequent/multiple storing of data/contents. Therefore, USB/Pen-drive as a storage medium cannot substitute DVD-Rs market.
- DVD-Rs present a very good data storage platform for archival purpose for software, entertainment materials, etc which does not require multiple writing. Penetration of computer and internet is insignificant to lead to sharp decline in demand for DVD-Rs in this usage segments. New and emerging areas such as medical diagnostics, photo-storage, etc. would create new demands for DVDs.
- Market for data storage and transmission would grow and the demand for CD, DVD, Blue-Ray & Magnetic & Optical Recording Media will remain significant in coming years as per the report published by Anything Research (www.anythingresearch.com) made available by the domestic industry. The Authority further notes that this report is based on US Census and Government market data.
- The most prominent sector where demand of DVD-Rs is high is the entertainment sector which includes rental movies, games, etc, which has not been penetrated by Blue ray and pen drives despite their higher capacity.
- The demand of DVD is still significant in developed nations where the access to internet is widespread. Hence, it was submitted that DVD demand would remain significant in India in the coming years.
- Further, China continues to find DVD as the majority product in optical media storage devices. This is evident from the fact that China produced

and exported huge volumes of DVD despite 42% penetration level of internet and despite being a hub of USB/Pen-drive production.

- Physical media like DVD still generate more movie revenue than streaming services. Demand for physical media would remain significant due to reasons like obsessive needs of collectors, for gifts and games
- Only 9.5% of the population in India owns a computer or a laptop and only 3.1% of the Indian population owns computer/laptop with internet. Therefore, as claimed by the domestic industry the usage of pen drives or hard disk or internet downloading is limited to these numbers only.
- DVDs are also more prevalent where large data needs to be distributed to large number of people at economical cost as providing DVD costing Rs.15-20 is cost effective rather than pen-drive which costs about Rs. 200 or more.

The above indicates that though there is a marginal decline in demand for DVDs in India in the last few years, which is on the line of global trends, DVDs would continue to remain the preferred medium for data storage and transmission for some time to come and therefore, cannot be considered as the major reason for the injury caused to the domestic industry.

iii. Pattern of consumption: - The pattern of consumption of DVDs *vis-a vis* other competing products as discussed in the previous section indicates that there is no significant change in the pattern of consumption for the subject goods affecting the conditions of the domestic industry.

iv. Conditions of competition:- The Authority notes that the investigation has not shown that conditions of competition or trade restrictive practices are responsible for the claimed injury to the domestic industry.

v. Developments in technology:- The Authority notes that the investigation has not shown that there was any significant change in technology in the manufacturing process or usage of the product except for the arrival of new technologies such as pen drives, blue-rays and internet based transmission as discussed in para (ii) above, which could have caused injury to the domestic industry.

vi. Export performance of the domestic industry: - The volume of exports of the domestic industry has declined significantly during the injury investigation period keeping in line with the global trend and this has added to the injury of the domestic industry. However, the injury analysis in the previous section is based

on the domestic performance of the domestic industry. Prices and profitability in the domestic and export markets have been segregated by the Authority for the purpose of assessing injury to the domestic industry.

I. Conclusion on Injury and causal Links

112. The above analysis indicates that the domestic industry continues to suffer material injury on account of decline in production and sales, low capacity utilisation and losses in sale of the products under consideration. However, segmental analysis shows that the injury is more prominent in the DVD-Rs segment which constitutes more than 99% of the production and sales of the domestic industry. DVD-RWs segment is profitable for the domestic industry, though it is less than 1% of the total production and sales of the domestic industry, and therefore, does not suffer any material injury at the moment. At present DVD-RWs are not being dumped by the subject countries as the dumping margin works out to be negative though the volumes are not significant.

113. However, the volume of imports from the subject countries being too low at the moment the volume impact of dumped imports does not seem to be significant or material at present. DVD-Rs continue to significantly undercut the prices of the domestic industry and also have underselling effect on the domestic industry's selling prices though the volume is low. However, as noted earlier, various factors such as imports from various sources, including dumped imports from the subject countries, appear to have caused injury to the domestic industry during the investigation period.

J. Likelihood of continuation or recurrence of injury

114. The Authority notes that this is a sunset review investigation and the focus of this investigation is to examine the likely scenario of injury if the duties are to be removed, even if there is no current injury and/or causal link. In the previous section on likelihood of continuation or recurrence of dumping it has been established that dumping is likely to recur from the subject countries in the event of withdrawal of the duties.

J.1 Submissions by the domestic industry

115. The petitioner has claimed that the cessation of anti dumping duties is likely to lead to continuation or recurrence of dumping and injury. It has been further claimed that 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 continue or recur; and whether the domestic industry would continue to suffer material injury or the injury to the

domestic industry would recur if duties are removed. In this regard the petitioner has stated the following:

- a) Even where there are nil imports from a subject country in a sunset review investigation, the investigation can be initiated and the duty continued as has been the case in a number of investigations undertaken by the Authority.
- b) There are significant freely disposable current and potential capacities with producers in the subject countries and the producers in the subject countries have high export orientation, as detailed in the petition.
- c) 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 starts from other set of countries. This shift in imports clearly shows that the exporters are deliberately and consciously resorting to dumping to retain their market shares in global market due to over capacities in those countries.
- d) The Indian market for the product under consideration is highly price sensitive. The consumers decide their source, with the price being the foremost consideration.
- e) Imports from subject countries are causing significant price undercutting to the Domestic Industry. Demand for the product under consideration is practically in DVD-R category 99.87% sales of the domestic industry being in this category. Therefore, likelihood of dumping and injury should be established by considering information for DVD-R. Information for DVD-RW is not reflective and representative of the likelihood situation, given extremely small market that is being catered by them. It would thus be seen that 99.87% of the sales of the domestic industry is likely to face undercutting in the event of cessation of anti dumping duty. Even if it is admitted that 0.13% of the sales is not likely to face undercutting, the domestic industry is likely to face price undercutting in respect of "product under consideration" from dumped imports from subject countries in the event of cessation of anti dumping duty.
- f) If the price undercutting is examined cumulatively from various dumped sources it would be seen that the weighted average price undercutting by dumped imports (including UAE and Vietnam) is significantly positive. Given the nature of the product under consideration, it is obvious that the producers in subject countries are unlikely to get a price different from the prices at which other foreign producers are exporting the product under

consideration. Thus, the price undercutting from imports from other countries is a clear indicator of the price undercutting that is likely from the subject countries in the event of cessation of anti dumping duty.

116. The domestic industry, in its post disclosure submissions, has argued that whereas actual pattern of imports between DVD-Rs and DVD-RWs is relevant for the purpose of current dumping analysis, the consumption pattern of DVD in India and export volume of the exporters from subject countries globally is important for the purpose of likelihood analysis. The sales pattern of domestic industry between DVD-Rs and DVD-RWs is relevant for the likelihood of injury analysis. The sales pattern of exporters between DVD-Rs and DVD-RWs in global market is relevant for the likelihood of dumping analysis. The domestic industry further argues that dumping margin, price undercutting and injury margin should be determined twice – once on the basis of actual import volumes to show the actual dumping, actual undercutting and actual injury margin position during current period and thereafter on the basis of (a) domestic industry sales volume pattern to show the likely position for the purpose of likelihood of injury analysis, and (b) exporters' third countries sales volume pattern to show the likely position for the purpose of likelihood of dumping analysis. The disclosure statement clearly establishes (a) positive dumping margin, price undercutting and injury margin in DVD-Rs (b) negative dumping margin, price undercutting and injury margin in DVD-RWs, (c) negative dumping margin, price undercutting and injury margin for DVD as a whole considering actual import volumes, (d) positive dumping margin, price undercutting and injury margin in DVD-RWs in case of likelihood situation considering domestic industry sales pattern and exporters export pattern. Therefore, investigations should focus on likelihood of dumping and injury considering the respective volumes of DVD-Rs and DVD-RWs of domestic industry (for injury) and exporters (for dumping).

J.2 Submissions by producers/exporters/importers/other interested parties

117. None of the producers/exporters/importers/other interested parties has made any submissions in this regard.

J.3 Examination by the Authority

118. The Authority has looked in to the current volume and value of imports of the subject goods from the subject countries as well as other countries and the volume of domestic sales of the domestic industry to examine the likelihood of continuation or recurrence of injury to the domestic industry in the event of revocation of anti dumping duty. The Authority notes that though the current imports volumes are either low or nil from the subject countries the volumes of imports from other countries are significant. Domestic industry has also

emphasised the fact that there is clear market segmentation between the DVD-Rs and DVD-RWs in terms of commercial substitutability. The Authority notes that a clear likelihood of continuation/recurrence of dumping has been established in the previous section based on an objective examination of various factors. Accordingly, the likelihood scenario as far as continuation or recurrence of injury has been examined as follows:

a) Level of current and past dumping margins

119. The level of dumping margin both in the original as well as present investigation for DVD-Rs is significant though the volume of import during the POI from the subject countries is low. However, the Authority notes that antidumping duties on the subject countries as well as few other countries have been successful in preventing large scale dumped imports from these countries though these countries have significant spare capacities. Authority further notes that despite the domestic industry holding the capacity to meet the entire demand, significant volume of import is taking place from other countries not attracting duties at prices much lower than the antidumping duty paid imports from the subject countries and other sources attracting duties. Therefore, there is a very high possibility that once the duties are removed imports will start from these countries at comparable prices. At these prices price undercutting and underselling to the domestic industry prices will be significant preventing it to recover even the normated non-injurious price. Therefore, injury to the domestic industry, which still continues to suffer injury because of other factors also, is likely to be intensified.

b) Price attractiveness of Indian market

120. As stated above the price at which the subject goods are being exported by China PR to India is an indicator of the likelihood of continuation/intensification of dumping. At the current landed price in India, there is positive undercutting without anti-dumping duty. Thus, with the revocation of anti-dumping duty, the Indian prices would be too attractive for the Chinese producers to intensify their exports to India at dumped prices and there is strong likelihood that Indian consumers would resort to large scale imports of the subject goods from China leading to intensification of injury to the domestic industry.

c) Global demand – supply scenario

121. There is a clear demand supply mismatch in the global DVD market, capacities exceeding the demand on the face of competing technologies. Therefore, there is clear possibility of aggressive market entry strategies being applied by global players and intensified dumping in India if duties are removed and the price level will be dictated by their market entry strategies leading to severe price

undercutting and underselling which will further affect the domestic industry's capacity utilisation and profitability.

K. Magnitude of Injury and injury margin

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

Injury Margins DVD-Rs			
Particulars	Unit	China PR	Chinese Taipei
Non injurious Price	Rs./piece	****	****
Landed Value without ADD	Rs./piece	5.65	6.43
Injury margin	Rs./piece	****	****
	%	****	****
	Range%	30%-40%	15%-25%
Injury Margins DVD-RWs			
Particulars	Unit	China PR	Chinese Taipei
Non injurious Price	Rs./piece	****	****
Landed Value without ADD	Rs./piece	45.96	37.07
Injury margin	Rs./piece	(****)	(****)
	%	(****%)	(****%)
	Range%	(60%-70%)	(50-60%)
Weighted average IM	Rs/Piece	(****)	(****)
Weighted average IM	%	(****%)	(****%)
	Range	(25-35%)	(45-55%)

L. Conclusion on Injury and Likelihood of injury

123. The above analysis indicates that the domestic industry continues to suffer material injury on account of decline in production and sales, low capacity utilisation and losses in sale of the products under consideration. However, segmental analysis shows that the injury is more prominent in the DVD-Rs segment which constitutes more than 99% of the production and sales of the domestic industry. DVD-RWs segment is profitable for the domestic industry, though it is less than 1% of the total production and sales of the domestic industry, and therefore, does not suffer any material injury at the moment. At present DVD-RWs are not being dumped by the subject countries as the dumping margin works out to be negative though the volumes of imports are

significantly higher than DVD-R imports. But for DVD-Rs the dumping margin is positive from two countries, there being no import from Hong Kong, and there is a clear likelihood of continuation and recurrence of dumping from the subject countries. Therefore, there is a clear likelihood of continuation and intensification of injury to the domestic industry if duties are revoked on this segment. Since DVD-Rs constitute overwhelming proportion of the domestic industry's production the injury to the domestic industry will be overwhelmingly on account of imports of DVD-Rs and not on account of DVD-RWs as has been demonstrated through the price and volume effects.

124. Therefore, the Authority concludes that there is a clear and imminent possibility of recurrence of dumping of DVD-Rs from the subject countries and consequent injury to the domestic industry on account of such dumped imports.

M. Indian industry's interest & other issues

125. No argument has been put forward by any interested party regarding the interests of the users and other such interested parties. However, the Authority notes that the subject goods are consumer goods directly used by entertainment and IT industry and public at large which may be affected by continuation of the duties. The Authority further 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 free and fair competition in the Indian market, which is in the general interest of the country. Imposition of anti-dumping measures would not restrict imports from the subject country in any way, and, therefore, would not affect the availability of the products to the consumers. On the other hand, if distortion caused by the dumped imports are not corrected it may lead to closure of the domestic production base and subsequent price increase by the foreign producers, which will adversely affect the user industry.

N. Recommendations

126. The Authority initiated and conducted the investigation into current dumping, injury and causal links between dumping and injury to the domestic industry and likelihood of continuation or recurrence of dumping from the subject countries and consequent injury to the domestic industry in the event of withdrawal of duty in terms of the Rules laid down. It has been clearly established in the foregoing paragraphs that there is a clear and imminent likelihood of recurrence of dumping from the subject countries, including Hong Kong, which has not exported the subject goods to India during the investigation period, in the event of withdrawal of duty.

127. It has also been established that the domestic industry is likely to continue to suffer material injury and the injury would intensify if the duties are removed.

Therefore, there is need for continued imposition of the duties to protect the domestic industry against continuation/ recurrence of dumping from the subject countries and continuation/ recurrence of injury to the domestic industry.

128. However, in the factual matrix of the case and keeping in view the current dumping and injury margins of individual product types i.e., DVD-Rs and DVD-RWs and the submissions of the domestic industry withdrawing its request for continuation of duty on DVD-RWs, the Authority is of the view that the ends of justice would be met if duties are extended only on DVD-R and not on DVD-RW.
129. As far as Hong Kong is concerned, though there are no imports from that country during the investigation period it has been established that there is a strong likelihood of goods of other origins being diverted through Hong Kong if the duties are removed on Hong Kong, keeping in view that this country does not have any production capacity for the subject goods and most of goods exported from this country are actually manufactured elsewhere.
130. Therefore, the Authority recommends continuation of duty, on all the three countries named, only in respect of DVD-Rs, as per the dumping and injury margins calculated for the investigation period, for a further period of 5 years from the date of its imposition to prevent recurrence of dumping and injury to the domestic industry. Having regard to the lesser duty rule followed by the authority, the Authority recommends continuation of definitive anti-dumping duties equal to the lesser of margins of dumping and margins of injury so established for DVD-Rs, for China PR and Chinese Taipei, so as to remove the injury to the domestic industry. As far as Hong Kong is concerned, in the absence of any estimates of dumping and injury margins, it is recommended to extend the duty applicable to China PR for the goods originating or exported from Hong Kong.
131. The duties, arising out of the previous investigation, were imposed in terms of fixed duties. Accordingly, the Authority recommends continued imposition of definitive antidumping duties equal to the amount indicated in Column-8 of the table below from the date of notification to be issued in this regard by the Central Government, on all imports of DVD-Rs originating in or exported from the subject countries for a further period of 5 years.

Duty Table

Sl. No	Sub Heading or Tariff Item	Description of Goods	Specification	Country of origin	Country of Export	Producer	Exporter	Duty Amount	Unit of Measure	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
1	8523	Digital Versatile Disc Recordable	DVD - R and DVD + R	China PR	China PR	Any	Any	36.67	Per 1000 pieces	USD
2	-Do-	-Do-	-Do	China PR	Any country other than China PR	Any	Any	36.67	-do-	-do-
3	-Do-	-Do-	-Do	Any country other than subject countries	China PR	Any	Any	36.67	-do-	-do-
4	-Do-	-Do-	-Do	Hong Kong	Hong Kong	Any	Any	36.67	-do-	-do-
5	-Do-	-Do-	-Do	Hong Kong	Any country other than Hong Kong	Any	Any	36.67	-do-	-do-
6	-Do-	-Do-	-Do	Any country other than subject countries	Hong Kong	Any	Any	36.67	-do-	-do-
7	-Do-	-Do-	-Do	Chinese Taipei	Chinese Taipei	Any	Any	22.39	-do-	-do-
8	-Do-	-Do-	-Do	Chinese Taipei	Any country other than Chinese Taipei	Any	Any	22.39	-do-	-do-
9	-Do-	-Do-	-Do	Any country other than subject countries	Chinese Taipei	Any	Any	22.39	-do-	-do-

O. Further Procedures

132. 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.

J. K. Dadoo
Designated Authority