

Government of India
MINISTRY OF COMMERCE & INDUSTRY
DEPARTMENT OF COMMERCE
(DIRECTORATE GENERAL OF ANTI-DUMPING & ALLIED DUTIES)

NOTIFICATION

NEW DELHI, the 28th August 2006

Preliminary Findings

Sub: Anti-Dumping Investigation involving import of Compact Discs-Recordable (CDRs) from China PR, Hong Kong, Singapore and Chinese Taipei.

F.NO. 14/15/2005-DGAD: - Having regard to the Customs Tariff Act 1975 as amended in 1995 (hereinafter referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, (hereinafter referred to as the Rules) thereof:

2. WHEREAS **Optical Disc Manufacturers Welfare Association, New Delhi** (herein after referred to as the applicants) has filed an application before the Designated Authority (hereinafter referred to as this Authority), in accordance with the Act, and Rules, alleging dumping of Compact Discs-Recordable (CD-Rs) **(herein after referred to as subject good), originating in or exported from the China PR, Hong Kong, Singapore and Chinese Taipei (referred to as subject countries)** and requested for initiation of an investigations for levy of anti dumping duties on the subject goods.

3. AND WHEREAS, the Authority on the basis of sufficient evidence submitted by the applicants on behalf of the domestic industry, issued a public notice dated 4th April 2006 published in the Gazette of India, Extraordinary, initiating Anti-Dumping investigations concerning imports of the subject goods originating in or exported from the subject countries in accordance with the sub-Rule 5(5) of the Rules to determine the existence, degree and effect of alleged dumping and to recommend the amount of antidumping duty, which if levied would be adequate to remove the injury to the domestic industry.

A. Procedure

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

- (i) The Designated Authority sent copies of initiation notifications dated 4th April 2006 to the Embassies/representatives of the subject countries/territories in India, known exporters from the subject countries/territories, importers and the domestic industry as per the information available with it and requested them to file questionnaire responses and make their views known in writing within 40 days of the initiation notification.
- (ii) Copies of the non-confidential version of the petition filed by the domestic industry were made available to the known exporters and the Embassies/High Commissions of the subject countries/territories in accordance with Rules 6(3) supra.
- (iii) The Embassies/High Commissions/ Representatives of the subject countries in New Delhi were informed about the initiation of the investigations in accordance with Rule 6(2) with a request to advise the exporters/producers from their countries/territories to respond to the questionnaire within the prescribed time. A copy of the letter, petition and questionnaire sent to the exporter was also sent to the Embassies/High Commissions of subject countries along with a list of known exporters/ producers.
- (iv) The Authority sent questionnaire, to elicit relevant information, to the known exporters from subject countries in accordance with the rule 6(4):-
- (v) In response to the above notification the requests were received from various interested parties for extension of time for submission of questionnaire response. However only the following exporters from the subject countries filed their questionnaire responses.
 - a) M/s Imation Singapore Pte Ltd., Singapore;
 - b) M/s Foshan Nanhai Pearl Audio Video Company, China PR

Optical disc Manufacturing and Technologies Association, Hong Kong also filed a letter dated 8th May 2006 requesting for additional time to file its response and cooperate in the investigation. They were allowed additional time as requested. However, the Association has not filed any response or any information with regard to this investigation. However, the Department of Trade and Industry, Government of the Special Administrative Region of Hong Kong also filed a representation, which has been taken on record.

- (vi) Questionnaires were sent to known importers and Consumers of subject goods in India calling for necessary information in accordance with Rule 6(4). However, no questionnaire response has been received from any importer of

the subject goods from the subject countries except brief submissions filed by the following parties:

- a) M/s Lok Enterprises, Mumbai
- b) M/s Crystal Impex, Mumbai

In addition to the above, M/s Allied Electronics, Udaipur, vide its letter dated 25th July 2006, made a request for additional time to file importer's questionnaire response. In the interest of the investigation, they were allowed additional time to file their response. This importer filed its questionnaire response on 21st August 2006. M/s Trend Automation Pvt. Ltd. also made a similar request but failed to file any response.

- vii) Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) and Central Board of Excise and Customs (CBEC) to arrange details of imports of subject goods for the past three years, including the period of investigations;
- viii) The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by the interested parties;
- ix) Optimum cost of production and cost to make and sell the subject goods in India based on the information furnished by the petitioner on the basis of Generally Accepted Accounting Principles (GAAP) was worked out provisionally so as to ascertain whether Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to Domestic Industry;
- x) The confidentiality claims of various interested parties in respect of the data submitted by them have been examined. The information, which is by nature confidential or which has been provided on a confidential basis by the interested parties, alongwith non-confidential summary thereof, has been treated confidential *** in this finding represents information furnished by the domestic industry on confidential basis and so considered by the Authority under the Rules.
- (xi) Investigation was carried out for the period starting from 1.10.2004 to 30.9.2005 (POI).

C. Product under Consideration and Like Article

5. The product under consideration in this investigation is Compact Discs-Recordable (CD-Rs). CD-R is a polycarbonate disc containing a spiral groove on one side to guide the laser beam for writing and reading information. The disc is coated on the side with the spiral groove with a very thin layer of vegetable-based organic dye and subsequently with a thin, reflecting layer of silver, a silver alloy or

gold. Finally, a protective coating of a photo-polymerizable lacquer is applied on top of the metal reflector and cured with UV-irradiation. Recording on such a disc can be done only once and therefore, the disc is said to be of the type 'WORM' (Write Once Read Many times). The disc is an optical storage medium for digital data or music. The product is classified under ITC (HS) and Customs Classification No. 8523.90.50. However, the above classification is indicative only and is no way binding on the investigation.

D. Standing of the Domestic Industry

6. The application has been filed by Optical Disc Manufacturers Welfare Association, New Delhi, (ODMA) comprising of 8 producers of the subject goods in India. Four producers of the subject goods and members of ODMA have joined the application as the applicants and other four members of ODMA have supported the petition. Therefore, domestic producers expressly supporting the application account for more than 90% of the total domestic production of the subject goods in India and constitute domestic industry within the meaning of the Rules.

E. De Minimis Limits

7. As per the import data received by the Authority from the Directorate General of Commercial Intelligence and Statistics (DGCI&S) and other secondary sources the imports of the subject goods from the subject countries are above the de minimis level.

F. Other submissions and issues raised

8. Trade and Industry Department, the Government of the Hong Kong Special Administrative Region, in its representation dated 14th June 2006 has inter alia made the following submissions:

- That the investigation has been initiated on the basis of unsubstantiated application filed by the Optical Disc Manufacturers Association as the application contains many doubtful and unjustified claims and the authority has failed to observe its obligation under Article 5.3 of ADA to examine adequacy and accuracy of the evidence provided in the application.
- That the dumping allegation against five named exporters from Hong Kong is unjustified as two of them have actually ceased to manufacture CDRs and two others did not export any CDRs to India during the POI.
- That non-confidential application submitted by the applicants does not provide a complete picture of the performance of the Indian Industry.
- That Hong Kong has a substantial domestic market of CDRs and most Hong Kong producers sell substantial quantities of CDRs to the domestic market. Therefore, proposed adoption of Normal Value based on Hong Kong's export price to Turkey is not appropriate. Turkey accounted for less than 0.43% of Hong Kong's, total export of CDRs.

- That the applicants have not provided sufficient evidence in their non-confidential applications for allowing fair assessment of the injury caused to the domestic industry. However, taking the ODMA's application at face value some information reported therein suggest that contrary to the claim of the complainants the Indian Industry is performing well. Therefore, the injury claim is doubtful.
- That ODMA has failed to separate and distinguish the injurious effects allegedly caused by imports from Hong Kong and there is no proof, in ODMA's application, of a causal link between imports of CDRS from Hong Kong and any injury to the Indian domestic industry. The Authority should therefore, discharge its obligation of non-attribution analysis and take into account other factors that might be negatively affecting the performance of the domestic industry.

The Authority has taken note of these submissions to the extent they are relevant and substantiated.

G. Determination of Dumping Margin

9. The Authority notes that only two exporter from the subject countries, namely M/s Imation Singapore Pte Ltd., Singapore; and M/s Foshan Nanhai Pearl Audio Video Company, China PR have filed questionnaire responses which have been examined as follows:

G.1 M/s Imation Singapore Pte Ltd., Singapore

10. M/s Imation Singapore Pte Ltd., Singapore is an exporter of the subject goods from Singapore without any production facility of its own. However, they have not provided the details and the cost of production of their supporting producer. This exporter has not filed the questionnaire response in the form and manner prescribed for this purpose. Accordingly, a detailed deficiency letter was sent to the exporter on 24th July calling for a revised questionnaire response in the form and manner prescribed, including the data of the supporting manufacturer, if any. However, the exporter has not filed any reply to the same.

G.2 M/s Foshan Nanhai Pearl Audio Video Company, China PR

11. M/s Foshan Nanhai Pearl Audio Video Company, China PR is a producer of the subject goods in China PR exporting the same to India through M/s. Sound Sound Multimedia Company, Hong Kong. It was noticed that the respondent has not filed any response from the actual exporter i.e., M/s. Sound Sound Multimedia Company, Hong Kong. The responding producer has also not filed any response to the market economy questionnaire. Several other deficiencies in respect the data submitted by the producer was also noticed. Therefore, a detailed deficiency letter was issued to this party on 24th July to submit the questionnaire response in the form and manner prescribed alongwith the questionnaire response of the actual exporter

of the subject goods and market economy response in respect of both and non-confidential version of their submissions. This exporter filed a reply to the above deficiency vide letter dated 4th August 2006. However, the exporter of the subject goods, i.e., M/s. Sound Sound Multimedia Company, Hong Kong has not filed any response. The responding producer has also not filed detailed market economy questionnaire response.

12. The Authority notes that Rule 6.8 of the antidumping Rules provide that in a case where an interested party refuses access to, or otherwise does not provide necessary information within a reasonable period, or significantly impedes the investigation, the designated authority may record its findings on the basis of the facts available to it.

13 Article 6.8 of the Agreement read with paragraph 1 of Annex II provides that as soon as possible after the initiation of the investigation, the investigating authorities should specify in detail the information required from any interested party, and the manner in which that information should be structured by the interested party in its response. The authorities should also ensure that the party is aware that if information is not supplied within a reasonable time, the authorities will be free to make determinations on the basis of the facts available, including those contained in the application for the initiation of the investigation by the domestic industry.

14. The Authority notes that the exporters in the subject countries and the respective Governments have been adequately notified about the requirement of submission of information in the form and manner prescribed and adequate opportunity was also granted to the parties to make their submissions in this regard. Therefore, in the absence of cooperation from the subject countries and pending compliance of the above deficiencies by the responding producers/exporters and examination/verification of the same the authority has determined the dumping margins in respect of the subject countries on the basis of facts available.

a) China PR

Normal Value

15. The Authority notes that none of the exporters/producers from China PR has provided any response or information on the normal value as per the prescribed questionnaire or rebutted the non-market economy presumption against Chinese exporters except the incomplete response filed by the exporter named above. Though the responding producer has filed the details of its domestic sales and cost of production the response is incomplete and market economy response has not been filed. In view of the above it does not permit any reasonable basis for determination of the normal value in that country. Therefore, for the purpose of the preliminary finding, pending submission of additional information by the responding producer in China PR the authority has provisionally estimated the normal value in

China taking into account the evidence of transaction value of CDR in domestic market in China provided by the applicants as the facts available with the Authority. However, such transaction prices being at distributor level appropriate adjustments have been applied on facts available basis to work out the normal value at the ex-factory level. Accordingly, the ex-works Normal Value of CDRs for all exporters from China has been provisionally determined as **US\$*******per Pc.

Export Price

16. The Authority also notes that the response filed by the lone Chinese producer in this case does not provide any actual export price to India as the information submitted shows its invoice price to the exporter in Hong Kong. The exporter in Hong Kong has not filed any response. Under the above circumstances it is not possible to determine separate export price for this exporter also. Therefore, export price has been worked out on the basis of weighted average export price of all comparable transactions in respect of imports from the China PR as per the DGCIS data after allowing for adjustments towards inland transportation, ocean freight and insurance from the CIF value reported by DGCIS on facts available basis in the absence of complete information from any cooperative exporter from that country. Accordingly, net-export price at the ex-factory level has been provisionally determined as **US\$*******per PC

Dumping Margin

17. For the purpose of determination of dumping margin the ex-works normal value and export prices so determined provisionally have been compared at the same level of trade. Accordingly, the weighted average dumping margin for all exporters from China PR has been provisionally determined as follows as **US\$*******per Pc (178%):

b) Singapore

18. As noted earlier only one exporter from Singapore has filed a questionnaire response. However, the response has not been found to be complete and deficiencies have been communicated to the responding exporter. Therefore, pending compliance of the above deficiencies by the producers/exporters from Singapore and examination/verification of the same the authority has determined the dumping margin in respect of the subject country as follows:

Normal Value:

19. Since the responding exporter's data is not complete, for the purpose of the preliminary finding, pending submission of additional information by the responding producer in China PR, the authority has provisionally estimated the normal value in Singapore taking into account the evidence of transaction value of CDR in domestic market in Singapore provided by the applicants as per the facts available

with the Authority. However, such transaction prices being at distributor level appropriate adjustments have been applied on facts available basis to work out the normal value at the ex-factory level. Accordingly, the ex-works Normal Value of CDRs for all exporters from Singapore has been provisionally determined as **US\$*******per Pc.

Export Price:

20. For the purpose of the preliminary determination of the export price the CIF import price reported in the DGCIS transaction-wise data has been relied upon. Adjustments towards inland transportation, ocean freight and insurance have been applied on the CIF value reported by DGCIS, on facts available basis, in the absence of complete information from any cooperative exporter from Singapore. Accordingly, net-export price at the ex-factory level has been provisionally determined as **US\$*******per PC

Dumping margins

21. For arriving at the dumping margin the export price has been compared with the normal value at the same level of trade, i.e. at ex-works level, during the POI. Accordingly, the dumping margins for the producers/exporters of the subject goods in Singapore have been determined as **US\$******* (78%).

c) Chinese Taipei

Normal Value

22. The Authority notes that none of the exporters/producers from Chinese Taipei has provided any response or information on the normal value as per the prescribed questionnaire. Therefore, for the purpose of the preliminary determination the Authority has estimated the normal value based on facts available as per the evidence of transaction value produced by the applicants. However, such transaction prices being at distributor level appropriate adjustments have been applied on facts available basis to work out the normal value at the ex-factory level. Accordingly, the ex-works Normal Value of CDRs for all exporters from Chinese Taipei has been provisionally determined as **US\$*******per Pc.

Export Price

23. In the absence of any cooperation from Chinese Taipei the Authority has worked out the weighted average export price of all comparable transaction in respect of imports from the Chinese Taipei as reported by DGCIS. The export price so assessed, being the CIF export price, adjustments towards inland transportation, ocean freight and insurance has been applied based on the facts available to arrive at ex-works export price. Accordingly, net-export price at the ex-factory level has been provisionally determined as **US\$*******Per PC.

Dumping Margin

24. The ex-works normal value has been compared with the normal value so determined at the same level of trade to determine the dumping margin which works out to US\$*****Per Pc (121%) for all exporters from Chinese Taipei.

d) Hong Kong

Normal Value:

25. The Authority notes that none of the exporters/producers from Hong Kong has provided any response or information on the normal value as per the prescribed questionnaire. Therefore, for the purpose of the preliminary determination the Authority has estimated the normal value based on facts available as per the evidence of transaction value produced by the applicants. Since the provisional determination has been done based on the basis of evidence of domestic transaction in Hong Kong the Authority notes that the comments of the Trade and Industry Department, the Government of Hong Kong Special Administrative Region on the subject are not relevant. Such transaction prices being at distributor level appropriate adjustments have been applied on facts available basis to work out the normal value at the ex-factory level. Accordingly, the ex-works Normal Value of CDRs for all exporters from Hong Kong has been provisionally determined as **US\$0. ******* per Pc.

Export Price:

26. In the absence of any cooperation from Hong Kong the Authority has worked out the weighted average export price of all comparable transaction in respect of imports from Hong Kong as reported by DGCIS. The export price so assessed, being the CIF export price, adjustments towards inland transportation, ocean freight and insurance has been applied based on the facts available to arrive at ex-works export price. Accordingly, net-export price at the ex-factory level has been provisionally determined as **US\$ *******Per PC.

Dumping Margin

27. The ex-works normal value has been compared with the normal value so determined at the same level of trade to determine the dumping margin which works out to US\$*****Per Pc (71%) for all exporters from Hong Kong.

G.3 Dumping Margin Summary

28. The dumping margins so determined have been found to be significant and above the de minimis levels. Summary of dumping margins are as follows:

Country	Exporter	Normal Value	Export Price	Dumping Margin	DM %
		US\$/Pc	US\$/Pc	US\$/Pc	
China PR	All Exporters	*****	*****	*****	178%
Singapore	All Exporters	*****	*****	*****	78%
Hong Kong	All Exporters	*****	*****	*****	71%
Chinese Taipei	All Exporters	*****	*****	*****	121%

H. INJURY DETERMINATION

29. The Authority notes that except the submissions of the Trade and Industry Department, the Government of the Hong Kong Special Administrative Region, as noted in the previous section, no argument has been made by any other interested party on the injury claims of the domestic industry. The Authority has noted the views expressed by the above interested party in respect of the injury claims of the domestic industry and examined the mandatory factors for the purpose of provisional injury determination and causal link analysis in these findings.

H.1 Cumulative assessment of injury

30. The Annexure II (iii) of the Anti Dumping Rules requires that where imports of a product from more than one country are being simultaneously subjected to anti dumping investigations, the designated authority will cumulatively assess the effect of such imports, in case it determines that

- I) The imports from individual countries are above de minimis or cumulatively account for more than 7% of imports:
- II) The dumping margin against individual countries are above 2%; and
- III) Cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic articles

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

- i) The margins of dumping of individual products from each of the subject countries/territories are more than the de minimis limit;

- ii) The volume of imports of individual products from each of the subject countries/territories is more than the limits prescribed;
- iii) The domestic product and product supplied by producers in various countries are like articles;
- iv) Imported products and domestically produced subject goods are interchangeable and are being interchangeably used. Transaction wise information on imports from various countries shows that the imports are being made by the traders who have purchased the material for reselling. Goods supplied by the countries involved are entering the Indian markets through the same channels of distributions and directly competing in the same market;
- v) Products supplied from the subject countries are being marketed in India during the same period through comparable sales channels and under similar commercial conditions;
- vi) Imports of individual products from each of the subject countries have increased;
- vii) The domestic producer and exporters in the subject countries are selling the product to the same category of consumers;
- viii) Imports from the subject countries are significantly undercutting the prices of the domestic industry in the market;

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

H.2 Examination of Injury and Causal Link:

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

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

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

H.2.1 Volume Effects of Dumped Imports: Import volumes and market shares

a) Import Volumes

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

37. Volume of imports of the subject goods from the subject countries have been analysed based on the data reported in the DGCI&S data after pruning the data for unrelated products. The import figures are as under:-

	Import Volumes		Qty In Nos	
Country	2002-03	2003-04	2004-05	POI
China PR	2200200	22109908	75171056	119843369
Hong Kong	0	7338659	17639805	26530200
Singapore	3706300	5913900	2247302	1888102
Chinese Taipei	27751823	31028228	61005966	94031421
Total Subject Countries	33,658,323	66,390,695	156,064,129	242,293,092
Trend	100	197	464	720
Other Countries	2,229,790	3,070,260	8,135,882	11,857,176
Trend	100	138	365	532
Total	35888113	69460955	164200011	254150268
Trend	100	194	458	708
Share of Subject countries	94%	96%	95%	95%
Share of other countries	6%	4%	5%	5%

Data Source: DGCI&S

38. The above data indicates that total imports and dumped imports of the subject goods from the subject countries have increased substantially during the injury examination period by about 700%. The share of dumped imports from the

subject countries account for about 95% of the total imports during this period, implying thereby that the imports from other sources are insignificant and entire growth of imports are accounted for by the imports from the subject countries.

b) Actual and potential effect on production and capacity utilization:

39. The volume of domestic production and effects of dumped imports on the domestic operation of the domestic industry have been examined in terms of total production, capacity utilization and domestic sales of the domestic industry. The Authority notes that one of the domestic producers is an export oriented unit and the domestic production of the domestic industry has been worked out taking into account its domestic sales entitlements as per the EOU Policy of the Government of India. The domestic sales of the domestic industry have been compared with the domestic production based on this entitlement.

	2002-03	2003-04	2004-05	POI
	Qty (Nos.)	Qty (Nos.)	Qty (Nos.)	Qty (Nos.)
Production, Sales and Market Share				
Installed Capacity	*****	*****	*****	*****
Production	*****	*****	*****	*****
Capacity Utilization (%)	78%	80%	93%	94%
<u>Domestic Sales</u>	*****	*****	*****	*****
Production for domestic market	*****	*****	*****	*****
Domestic sales entitlement	*****	*****	*****	*****
Sales as a % of entitlement		40%	84%	62%

40. The data indicates that though the domestic industry's capacity, production and capacity utilization remains high and has improved compared to the base year, its production for the domestic market and sales in the domestic market has declined significantly after improvement in 2004-05. The domestic sale as a percentage of its entitlement to sale in the domestic market has declined from 84% in 2004-05 to 62% in the POI.

c) Actual and potential effect on market share:

41. Effects of the dumped imports on the domestic sales and market shares have been examined as follows:

Country	2002-03	2003-04	2004-05	POI
Total Import Subject Countries	33658323	66390695	156064129	242293092
Trend	100	197.25	464	720
Other Countries	2229790	3070260	8135882	11857176
Trend	100	137.69	365	532
Total Import	35888113	69460955	164200011	254150268
Trend	100	193.55	458	708
Domestic Sales	*****	*****	*****	*****
Trend	100	225.67	353	307
Total Demand	*****	*****	*****	*****
Trend	100	219.02	375	390
Share in Demand Indexed				
Subject countries	100	90.06	124	184
Other countries	100	62.87	97	136
Domestic Industry	100	103.04	94	79

42. While the demand of the subject goods in the domestic market has increased by about 200% the share of the domestic industry in the total demand has declined by 17% compared to the base year while the share of the dumped imports have increased by 17% indicating that the dumped imports have significantly impacted the domestic industry's sales volumes and market shares.

H.2.2 Price effect of dumped imports

43. With regard to the effect of the dumped imports on prices, the Authority is required to consider whether there has been a significant price undercutting by the dumped imports as compared with the price of the like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. The Authority finds that the CIF import prices from the subject countries have been as under:-

Country	CIF Import Price			POI
	2002-03	2003-04	2004-05	
China PR	4.70	4.37	3.79	3.39
Hong Kong	0	4.44	3.43	3.36
Singapore	6.22	4.51	3.77	3.91
Chinese Taipei	5.82	4.76	3.74	3.06
Total Subject Countries	5.79	4.57	3.73	3.26
Trend	100	79	64	56

44. The above data indicates that the CIF import price of the subject goods from the subject countries have declined by over 44% compared to the base year.

H.2.3 Price undercutting and underselling

45. The Authority determined net sales realization of the domestic industry considering selling price, excluding taxes & duties, rebates, discounts & commissions and freight & transportation. Landed price of imports has been determined considering weighted average CIF import price, with 1% landing charges and applicable basic customs duty.

Country	2002-03	2003-04	2004-05	POI
Cost of Sale per unit	*****	*****	*****	*****
Trend	100	94.41	81.40	82.76
Selling Price	*****	*****	*****	*****
Trend	100	105.68	66.49	63.68
Landed value				
China PR	5.22	4.82	4.02	3.51
Hong Kong	0.00	4.89	3.64	3.48
Singapore	6.91	4.98	4.00	4.05
Chinese Taipei	6.47	5.25	3.96	3.17
Total Subject Countries	6.44	5.04	3.96	3.38
Trend	100	78.36	61.46	52.49
Price Undercutting				
China PR				30-40%
Hong Kong				30-40%
Singapore				15 -25%
Chinese Taipei				45-55%
Total Subject Countries				35-45%
NIP				
Price Underselling				*****
China PR				115-125%
Hong Kong				115-125%
Singapore				85-95%
Chinese Taipei				140-150%
Total Subject Countries				125-135%

46. Though there is a decline in the cost of production by about 17%, net sales realization of the domestic industry declined by about 38% over the injury period as shown in the table above. The landed value of imports from the subject countries has declined by about 48%. The price undercutting of the imports from the subject countries was about 40% during the POI. Price underselling of the dumped imports from the subject country as a % of landed value was more than 100% during the POI.

H.2.4 Price suppression and depression

47. To examine the price suppression effect of the dumped imports on the domestic prices the trend of net sale realization of the domestic industry has been compared with the cost of production. The data indicates that though there is a decline in the cost of production of the subject goods during the injury investigation period, the fall in sales realization has been significantly higher than the decline in cost of production. It therefore, appears that the price effect of the dumped imports have forced the domestic industry to keep its prices lower in order to retain its market share.

48. The above analysis shows that the dumped imports have adverse volume and price effect on the domestic industry in terms of increase in volume of dumped imports both in absolute terms and market shares and by depressing the prices of the domestic market and eroding its market share.

H.3 Examination of other injury factors

49. After examining some of the injury factors i.e. actual and potential decline in sales and market share; actual and potential increase in volume of imports etc. in the previous section, the Authority has examined the other mandatory injury parameters as follows:

a) Capacity, Production, Capacity Utilization and Sales

50. Performance of the domestic industry in terms of capacity, production, capacity utilization and sales has been as under:-

Production and capacity Utilization	Qty in Nos			
	2002-03	2003-04	2004-05	POI
Capacity of the DI	*****	*****	*****	*****
Trend	100	182	200	192
Total Production	*****	*****	*****	*****
Trend	100	188	237	231
Capacity Utilization	78%	80%	93%	94%
Trend	100	102	119	120
Domestic sales entitlement	*****	*****	*****	*****
Domestic Production	*****	*****	*****	*****
Trend	100	295	439	276
Domestic sales	*****	*****	*****	*****
Trend	100	225.67	353	307
Sales as % of entitlement		90%	84%	62%

51. The Authority notes that the capacity of the domestic industry has increased significantly in the year 2003-04 and thereafter there is very marginal addition to capacity. Total production of the domestic industry, including the production meant

for exports, has increased over the injury period by about 80% between 2002-03 and 2003-04 and thereafter the increase in production has been only about 25% in the next three years. As a result of higher production the capacity utilization has also improved. However, even though total production has increased, the domestic sales have significantly declined in the POI after showing increase in the previous years. The production for domestic sales also shows significant decline after improvement in the previous year though the domestic demand shows a growth of about 78% over the base year.

b) Profits/Loss and Return on investments

52. Profits earned by the domestic industry from the sales of the subject goods in the domestic market were as follows:-

		2002-03	2003-04	2004-05	POI
Average Domestic Cost of Sales	Rs Per Unit	*****	*****	*****	*****
Average domestic selling price	Rs Per Unit	*****	*****	*****	*****
Profit / Loss	Rs Per Unit	*****	*****	(*****)	(*****)
Trend		100	264	-142	-204
Domestic Investment	Rs	*****	*****	*****	*****
ROI on Domestic investments	Rs	*****	*****	*****	*****
Return on Investment [ROI] %	%	***** %	***** %	(*****) %	(*****)%
Trend		100	53	-18	-28

53. The above data indicates that in spite of increase in overall production and sales, and decline in cost of production, the domestic industry has started losing money on the domestic sales due to significant decline in the domestic selling prices. From positive profit margin per unit in the base year, the domestic industry makes net loss on the domestic sales in the POI. The return on the domestic investments of the domestic industry has declined from a positive return of about 17% in the base year to a negative return of about 5% during the POI.

c) Employment and Wages

54. Number of employees and wages paid has indicates that employment has increased because of the increase in production, which is in line with the capacity addition. The wages have also increased by about 16% compared to the base year, which does not show any disproportionate increase in wage burden on the domestic industry.

	2002-03	2003-04	2004-05	POI
Employment (Manpower Strength)	*****	*****	*****	*****
Trend	100	176	236	249

Average wages per person	*****	*****	*****	*****
Trend	100	101	105	116
Average wages per person per day	*****	*****	*****	*****
Trend	100	101	105	116

d) Inventories

55. Inventory position of the domestic industry shows inventory holding by the domestic industry though the average stock has come down because of increase in export activity.

Inventory	2002-03	2003-04	2004-05	POI
Opening Stock	*****	*****	*****	*****
Closing Stock	*****	*****	*****	*****
Average Stock	*****	*****	*****	*****
Trend	100	35	70	72
Average Stock in terms of No. of Days' sales	82	13	16	19

g) Cash Flow

56. Cash profits of the domestic industry over the injury period have been as under:-

	2002-03	2003-04	2004-05	POI
Total Cash profit	*****	*****	*****	*****
Trend	100	2201	728	399
Cash Profit : Indigenous	*****	*****	*****	*****
Trend	100	325	110	19
Cash profit [Per unit]	*****	*****	*****	*****
Trend	100	113	30	15
Cash Profit : Indigenous [Per unit]	*****	*****	*****	*****
Trend	100	144	31	6

57. It is seen that the cash profits of the domestic industry has significantly deteriorated over the injury period.

h) Productivity

58. The productivity of the domestic industry has been examined with reference to production per day and per employee as follows:

	2002-03	2003-04	2004-05	POI
Total Production	*****	*****	*****	*****
Production Per day	*****	*****	*****	*****

Trend	100	188	237	231
No of Employees	*****	*****	*****	*****
Productivity per employee	*****	*****	*****	*****
Trend	100	107	100	93

59. The daily productivity of the domestic industry has improved though per employee productivity has marginally declined due to increase in employment level.

i) Growth

60. Even though growth of the domestic industry in terms of parameters, such as capacity, production, sales, and productivity was positive, the same was negative in terms of market share, profits, cash flow, and return on investments.

j) Ability to raise fresh Investment

61. The Authority notes that the domestic industry has made fresh capital investments in for expansion during the investigation period. However, the investment has been declining each year. However, it is found that the financial performance of the domestic industry is significantly eroding, which has adverse impact on its ability to raise fresh investments.

Investment	2002-03	2003-04	2004-05	POI
Capital Investment for expansion	*****	*****	*****	*****
Trend	100	72	44	32

Overall assessment

62. The above preliminary analysis of the factors that may indicate existence of material injury to the domestic industry shows that in spite of the improvement in capacity, production, and reduction in its cost of production, improvement in productivity, the domestic industry suffers injury on account of decline in domestic sales, while there is a healthy demand for the products in the domestic markets, low net sales realization, higher inventory built up, negative return on investments and profits. The injury suffered is material and significant.

H.4 Causal link

63. Having examined the existence of material injury and volume and price effects of dumped imports on the prices of the domestic in terms of its price undercutting, price underselling and price suppression, and depression effects the Authority has also examined whether other indicative parameters listed under the

Indian Rules and Agreement on Anti Dumping could have contributed to injury to the domestic industry. Therefore, the following parameters have been examined:

- a) Imports from Third Countries: - Imports from countries not under investigation are either insignificant or at prices higher than the import prices from the subject countries and therefore, do not affect the prices in the domestic industry;
- b) Contraction in Demand: - Demand for the subject goods have increased substantially during the injury examination period. Therefore, possible contraction in demand cannot be attributed to the injury to the domestic industry.
- c) Pattern of consumption: - No significant change in the pattern of consumption has been alleged by any interested party.
- d) Conditions of competition: - The goods are freely importable. The applicants are the major producers of the subject goods and account for almost 100% of the domestic production. Therefore, domestic competition could not be attributed to the injury to the domestic industry. No other evidence of conditions of competition or trade restrictive practices has been brought to the knowledge of the Authority.
- e) Developments in technology:- There is no allegation of significant changes in technology which could have caused injury to the domestic industry.
- f) Export performance of the domestic industry:-

	2002-03	2003-04	2004-05	POI
Export Sale	*****	*****	*****	*****
Trend	100	167	197	222

The Authority notes that the export sale of the domestic industry is substantial and shows significant growth. But the profitability from the export has also declined in the injury period. However, for the injury analysis the price and profitability in the domestic and export markets have been segregated. And injury if any caused due to the company's export performance has not been attributed to the dumped imports.

- g) Productivity: - Productivity of the domestic industry has improved in terms of total output. Therefore, this cannot be attributed to the injury of the domestic industry.

64. The non-attribution analysis as above shows that no other factor other than the dumped imports has affected the domestic industry.

H.4.1 Factors establishing causal link

65. Analysis of the performance of the domestic industry over the injury period shows that the performance of the domestic industry has materially deteriorated due to dumped imports from subject countries. Therefore, the causal links between dumped imports and the injury to the domestic industry is established on the following grounds:

1. The dumped import prices and consequently the landed price of imports from the subject countries steeply declined, resulting in significant price undercutting. As a direct consequence, the domestic industry was forced to reduce the prices.
2. Reduction in the selling prices by the domestic industry adversely affected the profits, cash flow and return on investments of the company.
3. Even though the domestic industry responded to decline in import prices, significant positive price undercutting resulted in increase in market share of imports from the subject countries. As a direct consequence, market share of the domestic industry declined.
4. In spite of increase in demand and reduction in selling prices by the domestic industry, market share of the domestic industry declined due to significant reduction in landed price of imports. This retarded the growth of the domestic industry.

66. Therefore, the Authority provisionally concludes that the domestic industry suffers material injury and the injury has been caused by the dumped imports from the subject countries/territories.

I Magnitude of Injury and injury margin

67. The non-injurious price determined by the Authority has been compared with the landed value of the exports for determination of injury margin. The weighted average landed price of the exports from the subject countries and the injury margins have been worked out as follows:

Product	Country	Exporter	Injury Margin Rs Per Pc	Injury Margin %
CDR	China PR	All Exporters	*****	115-125%
CDR	Singapore	All Exporters	*****	85-95%
CDR	Hong Kong	All Exporters	*****	115-125%

CDR	Chinese Taipei	All Exporters	*****	140-150%
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J. Conclusions

68. After examining the issues raised and submissions made by the interested parties and facts made available before the Authority as recorded in this finding the authority provisionally concludes that:

- i) The subject goods have entered the Indian market from the subject countries at prices less than their normal values in the domestic markets of the exporting countries;
- ii) The dumping margins of the subject goods imported from the subject countries are substantial and above de minimis;
- iii) The domestic industry has suffered material injury and the injury has been caused to the domestic industry both by volume and price effect of dumped imports of the subject goods originating in or exported from the subject countries.

K. Indian industry's interest & other issues

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

L. Recommendations

70. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the exporters, importers and other interested parties to provide positive information on the aspect of dumping, injury and causal links. Having initiated and conducted a preliminary investigation into dumping, injury and causal links between dumping and injury to the domestic industry in terms of the Rules laid down and having provisionally established positive dumping margin against the subject countries, and having concluded that the domestic industry suffers material injury due to such dumped imports the Authority is of the opinion that imposition of provisional measure is required to prevent injury being caused to the domestic industry during the investigation period.

71. Therefore, Authority considers it necessary and recommends provisional anti-dumping duty on imports of subject goods from the subject countries in the form and manner described hereunder.

72. Having regard to the lesser duty rule followed by the authority, the Authority recommends imposition of provisional anti-dumping duty equal to the lesser of margin of dumping and margin of injury, so as to remove the injury to the domestic industry. Accordingly, provisional antidumping duty equal to the amount indicated in Col 9 of the duty table annexed herewith is recommended to be imposed from the date of notification to be issued in this regard by the Central Government, on all imports of subject goods originating in or exported from the subject countries/territories.

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	8523.90.50	Compact Discs-Recordable (CDRs) Write Once Read Many Times	Any	China PR	China PR	Any	Any	0.094	PC	US\$
2	-Do-	-Do-	-Do-	China PR	Any	Any	Any	0.094	PC	US\$
3	-Do-	-Do-	-Do-	Any	China PR	Any	Any	0.094	PC	US\$
4	-Do-	-Do-	-Do-	Singapore	Singapore	Any	Any	0.064	PC	US\$
5	-Do-	-Do-	-Do-	Singapore	Any other than China PR and Chinese Taipei	Any	Any	0.064	PC	US\$
6	-Do-	-Do-	-Do-	Any other than China PR and Chinese Taipei	Singapore	Any	Any	0.064	PC	US\$
7	-Do-	-Do-	-Do-	Hong Kong	Hong Kong	Any	Any	0.049	PC	US\$
8	-Do-	-Do-	-Do-	Hong Kong	Any other	Any	Any	0.049	PC	US\$

					than subject countries					
9	-Do-	-Do-	-Do-	Any other than subject countries	Hong Kong	Any	Any	0.049	PC	US\$
10	-Do-	-Do-	-Do-	Chinese Taipei	Chinese Taipei	Any	Any	0.075	PC	US\$
11	-Do-	-Do-	-Do-	Chinese Taipei	Any other than China PR	Any	Any	0.075	PC	US\$
12	-Do-	-Do-	-Do-	Any other than China PR	Chinese Taipei	Any	Any	0.075	PC	US\$

M. Further Procedures

73. The following procedure would be followed subsequent to notifying the preliminary findings:-

- (a) The Authority invites comments on these findings from all interested parties and the same would be considered in the final finding;
- (b) Exporters, importers, petitioner and other interested parties known to be concerned are being addressed separately by the Authority, who may make known their views, within forty days from the date of the dispatch of the letter. Any other interested party may also make known its views within forty (40) days from the date of publication of these findings;
- (c) The Authority would conduct further verification to the extent deemed necessary;
- (d) The Authority would disclose essential facts before announcing final findings.

**Christy L. Fernandez
Designated Authority**