

**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)  
Udyog Bhawan, New Delhi  
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**Dated the: 13.12.2007**

**Preliminary Findings**

**Subject: Preliminary findings of Anti-dumping investigations on imports of Compact Disc – Recordable (CD-R) from Iran, Malaysia, Korea ROK, Thailand, UAE and Vietnam.**

**NO. 14/9/2007-DGAD:** - Having regard to the Customs Tariff Act 1975 as amended in 1995 (hereinafter referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, (hereinafter referred to as the Rules) thereof:

2. Whereas M/s Optical Disc Manufactures Welfare Association, New Delhi has filed an application before the Designated Authority (hereinafter referred to as the Authority), in accordance with the Customs Tariff Act, 1975 as amended in 1995 and Customs Tariff (Identification, Assessment and Collection of Anti Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (herein after referred as Rules), alleging dumping of Compact Disc Recordable (CD-R) (herein after referred to as subject goods), originating in or exported from Iran, Malaysia, Korea ROK, Thailand, UAE and Vietnam (hereinafter referred to as subject countries) and requested for initiation of Anti Dumping investigations for levy of anti dumping duties on the subject goods. The Authority notified the Embassies of Iran, Malaysia, Korea ROK, Thailand, UAE and Vietnam about the receipt of dumping allegation in accordance with sub Rule 5(5) of Rules.

3. And Whereas, the Authority on the basis of sufficient evidence submitted by the applicant on behalf of the domestic industry, issued a public notice dated 12th September 2007 published in the Gazette of India, Extraordinary, initiating Anti-Dumping investigations concerning imports of the subject goods originating in or exported from the subject countries in accordance with sub-Rule 6(1) of the Rules to determine the existence, degree and effect of alleged dumping and to recommend the amount of antidumping duty, which if levied would be adequate to remove the injury to the domestic industry.

**A. General**

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

- a) The Designated Authority sent copies of initiation notification dated 12.09.2007 to the Embassies of the subject countries in India, known exporters from the subject countries, importers and the domestic industry as per the addresses made available by the applicant and requested them to make their views known in writing within 40 days of the initiation notification.
- b) The Authority provided copies of the non-confidential version of the application to the known exporters and to the Embassies of subject countries in accordance with Rule 6(3) supra.
- c) The Embassies/High commission of the subject countries in New Delhi, were informed about the initiation of the investigation in accordance with Rule 6(2) with a request to advise the exporters/producers from their countries to respond to the questionnaire within the prescribed time. A copy of the letter and questionnaire sent to the exporters were also sent to Embassies/High commission of subject countries along with the names and addresses of the exporters.
- d) The Authority sent questionnaires, to elicit relevant information to the known exporters in subject countries in accordance with Rule 6(4). The Authority sent questionnaire concerning Market Economy Treatment to exporters of Vietnam.
- e) Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of imports of subject goods for the past three years and the period of investigation;
- f) 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;
- g) 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;
- h) Investigation was carried out for the period starting from 1st April 2006 to 30th June 2007 (POI). The examination of trends in the context of injury analysis covered the periods from April 2003-March 2004, April 2004-March 2005, April 2005-March 2006 and the POI.
- i) The confidentiality claims of domestic industry in respect of the data submitted by them have been examined. The data concerning costing, customers, prices have been treated as confidential. The information relating to volume of subject goods for the period of investigation has not been treated confidential. The confidentiality claims of exporters are under examination. However, for the purpose of preliminary findings, information provided by the exporters as confidential has been treated as confidential. \*\*\* in this finding represents information furnished by the interested parties on confidential basis and so considered by the Authority under the Rules.

j) In response to the above said notification the following exporters from the subject countries filed their responses to questionnaire. The responses were received in the extended time from the exporters at S.No.1 & 2 below. The response from the exporter at S.No.3 was received after the permitted time, however, the Designated Authority decided to condone the delay and consider the response:-

1. M/s Pan Star Electronics Co. Ltd., Thailand
2. M/s. Ritek Vietnam Co. Ltd., Vietnam
3. M/s. Newstar Digital, S. Korea

In the extended time the exporters were expected to submit the questionnaire by completing all the information, however, it was noticed that some information was either deficient or missing. The Authority, however, decided to rely on the maximum possible information provisionally for the purpose of Preliminary Findings. For the final findings, the information will be considered only after rectification of deficiencies and verification.

- k) Other exporters and importers who have not submitted information are being treated as non-cooperating exporters and importers.
- l) In compliance of decision of Supreme Court in Civil Appeal No.1294 of 2001, the normal values for subject countries have been determined.

## **B. Product under Consideration**

5. The product under consideration in this investigation is 'Compact Disc-Recordable (CD-R).

6. The CD-R is a polycarbonate disc. A polycarbonate disc contains 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.

7. 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.

### **B.1 Like Article**

8. The domestic industry manufactures 'CD-R', which is identical to the product under consideration. The goods originating in or exported from the subject countries Compact Disc Recordable produced by the domestic industry and imports from subject countries are comparable, technically and commercially substitutable in terms of physical, technical, characteristics, functions and uses. Therefore, for the purpose of the present investigation, Compact Disc- Recordable produced by the domestic

industry is being treated as like article to Compact Disc – Recordable imported from subject countries within the meaning of the Anti Dumping Rules.

### **C. Standing of the Domestic Industry and initiation of the investigation**

9 The application has been filed by Optical Disc Manufacturers Welfare Association, New Delhi, (ODMA) comprising of 8 producers of the subject goods in India. Three 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 domestic production of the subject goods in India. Further, the three companies who joined the application constitute domestic industry within the meaning of the Rules.

#### **Other issue**

10. **Provision of application under Rule 6(3)** - M/s Ritek Vietnam Company Limited has stated that as per Rule 6, it was obligatory for the Designated Authority provide full text of updated application to the known exporters that formed the basis of initiation. The Authority notes that the copies of the application were provided to exporters and Govt. of the subject countries as required under Rule 6 (3). Further information and evidence (non-confidential version) were made available by keeping the same in public file which were open to inspection by all interested parties.

11. **Retrospective Imposition of Duty as per Section 9A(3)** - The domestic industry has contended that there are massive imports in a relatively short period. This is established by de facto 100% share of subject countries in imports into India and a significant market share in the consumption in the country. The shift in imports from other countries now attracting anti-dumping duty to present countries clearly show that the importers are deliberating and consciously resorting to dumping. There is a history of dumping. The exporters are well aware that they are resorting to dumping. Importers are or should have been well aware that the exporters are practicing dumping. Therefore, this is fit case for imposition of anti-dumping duty retrospectively as per Section 9A(3) of the Custom Tariff Act.

12. It has further been informed to the Authority by providing data on imports that there was unprecedented volume of imports as a result of initiation of investigation by the Designated Authority and in anticipation of anti-dumping duty. It has been intimated that in August, September and October'07, the imports constitute 14.18, 16.98 and 45.51 million pieces respectively of subject goods as compared to 10.85 million pieces in April-June'07 and 1.88 million pieces in July'07.

13. The exporter M/s Ritek Vietnam Co. Ltd. has stated that Vietnam has started producing the subject goods for the first time only in the period of investigation. It has been stated that they are at a loss as to how they can be accused of history of dumping. There is no evidence for any other country also. It has been pointed out that the domestic industry in their application has only paraphrased the legal provisions and has not provided any support or basis or evidence to invoke Section 9A(3). Further, there is no material on record for the Designated Authority to even form or proceed to examine the issue of retrospective levy under Section 9A(3).

14. The Authority has taken note of the arguments of the domestic industry and the exporter. The issue will be decided in details after the preliminary findings by receiving comments from all the interested parties.

#### **D. Methodology for calculation of dumping margin**

##### **D.1 Thailand**

15. In response to the initiation notification one exporter from Thailand namely M/s Pan Star Electronics Co. Ltd., filed the information on the exporter questioner. The examination of the information shows that the exporter has provided information on domestic, exports sales and cost of production. The calculation of the cost of production (Appendix-8) was not tallying with Appendix 7. The correct calculation indicated that the domestic sales were made below the cost of production. It was also noticed that no information have been provided concerning expenses on domestic and export sales.

##### **Normal value for Thailand**

16. For determining normal value, the Authority has examined the data on domestic sales and cost of production provided by M/s Panstar Electronic Co. Ltd. On examination It was found that the figure of stock is not reconciling. The company appear to be involved in trading in subject goods as well. It is also observed that figures in Appendix 7 & 8 is not reconciling with each other. The cost has been calculated on the basis of data provided by the exporter in Appendix 7. As per calculation, the per unit cost price of CD-R comes to \*\*\* Baht. After comparison, it is found that the domestic sales were made below the cost of production, therefore, transactions of domestic sales cannot be considered as having been made in the ordinary course of trade as per Section 9(A)(c) of the Customs Tariff Act, 1975.

17. The normal value for Thailand has been constructed on the basis of cost of production of the exporter as per facts available as per Rule 6(8) of Anti-dumping Rules. For determination of normal value, to the cost of production as calculated above, a profit @ 5% has been added. By this methodology, the normal value for Thailand has been determined as US\$\*\*\* per 1000 pcs.

##### **Export price for M/s Panstar Electronics Co. Ltd.**

18. The exporter has provided the transaction-wise details of exports to India. On examination and comparison of data provided by the exporter and imports data by the DGCI&S in which importers names were made available to the Authority, it has been found that export transactions of the exporter are reported at lower value in the data of DGCI&S. The comparison could be made approx. for 30% of the export transactions of the exporter. The Authority has accepted the value reported in the DGCI&S transactions. The adjustment has been made for the difference in the value. The exports have been made on f.o.b. basis, however, expenses on account of commission, inland transport, port expenses and bank charges have not been provided for determination of net export price. The adjustments for same have been made on the basis of facts available. By above methodology, the net export price has been calculated as US\$ \*\*\* per 1000 pcs.

## **Export price for the Non-cooperating exporters**

19. For non-cooperating exporters, the transaction-wise imports data provided by Impex Statistics have been relied upon. The adjustments on account of ocean freight, marine insurance, commission, inland freight, port expenses and bank charges have been made to determine the net export price. By above methodology, the net export price has been calculated as US\$ \*\*\* per 1000 pcs.

## **D.2 Korea ROK**

20. In response to the initiation notification one exporter from Korea ROK namely M/s Newstar Digital filed the information on the exporter questioner. The examination of the information shows that the exporter has provided information on domestic and exports sales. However, data on cost of production in detail on the prescribed format has not been provided. In absence of proper detail of data, it is not possible to evaluate whether the domestic sales have been made in the ordinary course of trade as per Section 9(A)(c) of the Customs Tariff Act, 1975. Similarly, the expenses concerning transaction-wise details on domestic and export sales have not been provided.

## **Normal value for Korea ROK**

21. For determining normal value, the Authority in view of the absence of details on the cost of production has not been able to determine whether the domestic sales have been made in the ordinary course of trade, therefore, the data on domestic sales has not been relied on for determination of normal value. For determination of normal value, the Authority has relied on the facts available.

22. The normal value for Korea ROK has been constructed on the basis of facts available as per Rule 6(8) of Anti-dumping Rules by taking into account the international price of the raw materials and consumption, conversion cost of the major producer of the domestic industry. A profit @ 5% has been added to determine the normal value. By this methodology, the normal value for Korea ROK has been determined as US\$\*\*\* per 1000 pcs.

## **Export price for M/s Newstar Digital**

23. The exporter has provided the transaction-wise details of exports to India. The same has been relied upon for calculation of export price. The exports appear to have been made on c.i.f. basis, however, expenses on account of ocean freight, marine insurance, commission, inland transport, port expenses and bank charges have not been provided for determination of net export price. The adjustments for same have been made on the basis of facts available. By above methodology, the net export price has been calculated as US\$ \*\*\* per 1000 pcs.

## **Export price for the Non-cooperating exporters**

24. For non-cooperating exporters, the transaction-wise imports data provided by Impex Statistics have been relied upon. The adjustments on account of ocean freight, marine insurance, commission, inland freight, port expenses and bank

charges have been made to determine the net export price. By above methodology, the net export price has been calculated as US\$ \*\*\* per 1000 pcs.

### **D.3 Vietnam**

25. At the stage of initiation, the Authority proceeded with the presumption by treating Vietnam as a non-market economy country for purposes of an anti dumping investigation. Upon initiation, the Authority advised the Vietnamese producers to respond to the notice of initiation and provide relevant information for determination of their market economy status.

26. The Authority sent copies of the questionnaire to all the known exporters for the purpose of determination of normal value in accordance with Section 9A(1)(c) and Annexure-I to the Rules. In response to questionnaires, M/s Ritek Vietnam Co. Ltd. provided information for rebutting the presumption of non-market economy.

27. M/s Ritek Vietnam Company Limited stated that they are not providing any comments on selection of non-market economy third country as no information has been provided by the domestic industry and no selection has been made by the Authority as per para 7 of the Annexure 1 of Rules. The Authority in this regard notes that the domestic industry has not provided any reason for selection of Malasiya as non- market economy third country. The Authority also notes that as per para 7 of the Annexure 1 of Rules, the selection is to be made in a reasonable manner and in due account is to be taken of any reliable information made available at the time of selection. The Authority therefore, seeks further information from domestic industry and interested parties specifically from M/s Ritek Vietnam Company Limited for selection of appropriate market economy third country.

28. the Authority has taken note of response of exporter concerning market economy treatment however, final decision in this regard will be taken after verification of the information provided.

29. The exporter has also submitted the exporter questionnaire by providing information concerning export sales and cost of production. It has been noted that no domestic sales has been made by the exporter during the period of investigation. On examination of the cost information it is found that stocks are not reconciling. The difference in production and sales cannot be reconciled. It appears to be due to trade in subject goods. However, no cost information has been provided in this regard. In view of the absence of proper information, the Authority has not relied on information provided in Appendix 8. Therefore, the Authority has calculated the cost as per Appendix 7, as per calculation, the cost per unit of CD-R comes to \*\*\* VND.

### **Normal value for Vietnam**

30. On comparison of export price to third country and cost of production of M/s Ritek Vietnam Co. Ltd., it has been noted that sales were made below the cost of production, therefore, transactions of export sales cannot be considered as having been made in the ordinary course of trade as per Section 9(A)(c) of the Customs Tariff Act, 1975, therefore, the normal value for Vietnam has been constructed on the basis of cost of production of the exporter as per facts available as per Rule 6(8) of Anti-dumping Rules. For determination of normal value, to the cost of production as

calculated above, a profit @ 5% has been added. By this methodology, the normal value for Vietnam has been determined as US\$\*\*\* per 1000 pcs.

#### **Export price for M/s Ritek Vietnam Co. Ltd.**

31. The exporter has provided the transaction-wise details of exports to India. The same has been relied upon for calculation of export price. The exports have been made on c.i.f. basis, however, expenses on account of marine insurance, commission, inland transport, port expenses and bank charges have not been provided for determination of net export price. The adjustments for same have been made on the basis of facts available. By above methodology, the net export price has been calculated as US\$ \*\*\* per 1000 pcs.

#### **Export price for the Non-cooperating exporters**

32. For non-cooperating exporters, the transaction-wise imports data provided by Impex Statistics have been relied upon. The adjustments on account of ocean freight, marine insurance, commission, inland freight, port expenses and bank charges have been made to determine the net export price. By above methodology, the net export price has been calculated as US\$ \*\*\* per 1000 pcs.

### **D.4 Iran**

#### **Normal Value**

33. No exporter from the Iran has responded to the Initiation Notification. In absence of any response, the Authority has relied on the facts available as per Rule 6(8) of the Anti-dumping Rules to determine the normal value. For this purpose, normal value has been constructed by taking into account the international price of the raw materials and consumption, conversion cost of the major producer of the domestic industry. A profit @ 5% has been added to determine the normal value. By this methodology, the normal value for Iran has been determined as US\$\*\*\* per 1000 pcs.

#### **Export price**

34. For non-cooperating exporters, the transaction-wise imports data provided by Impex Statistics have been relied upon. The adjustments on account of ocean freight, marine insurance, commission, inland freight, port expenses and bank charges have been made to determine the net export price. By above methodology, the net export price has been calculated as US\$ \*\*\* per 1000 pcs.

### **D.5 Malaysia**

#### **Normal Value**

35. No exporter from the Malaysia has responded to the Initiation Notification. In absence of any response, the Authority has relied on the facts available as per Rule 6(8) of the Anti-dumping Rules to determine the normal value. For this purpose, normal value has been constructed by taking into account the international price of the raw materials and consumption, conversion cost of the major producer of the domestic industry. A profit @ 5% has been added to determine the normal value. By this methodology, the normal value for Malaysia has been determined as US\$\*\*\* per 1000 pcs.

## Export price

36. For non-cooperating exporters, the transaction-wise imports data provided by Impex Statistics have been relied upon. The adjustments on account of ocean freight, marine insurance, commission, inland freight, port expenses and bank charges have been made to determine the net export price. By above methodology, the net export price has been calculated as US\$ \*\*\* per 1000 pcs.

## D.6 UAE

### Normal Value

37. No exporter from the UAE has responded to the Initiation Notification. In absence of any response, the Authority has relied on the facts available as per Rule 6(8) of the Anti-dumping Rules to determine the normal value. For this purpose, normal value has been constructed by taking into account the international price of the raw materials and consumption, conversion cost of the major producer of the domestic industry. A profit @ 5% has been added to determine the normal value. By this methodology, the normal value for UAE has been determined as US\$\*\*\* per 1000 pcs.

### Export price

38. For non-cooperating exporters, the transaction-wise imports data provided by Impex Statistics have been relied upon. The adjustments on account of ocean freight, marine insurance, commission, inland freight, port expenses and bank charges have been made to determine the net export price. By above methodology, the net export price has been calculated as US\$ \*\*\* per 1000 pcs.

### Dumping Margin

39. On the basis of normal values and export prices as determined above, the dumping margins for cooperating and non-cooperating exporters are determined as per table below: -

Exporter/ Producer	Normal Value (US\$/1000Pcs)	Export Price (US\$/1000Pcs)	Dumping Margin (US\$/1000Pcs)	Dumping Margin (%)
Iran (All exporters/producers)	***	***	***	77.79
Malaysia(All exporters/producers)	***	***	***	56.29
Thailand				
Panstar Electronics Co. Ltd.	***	***	***	19.59
All exporters/producers other than Panstar	***	***	***	32.57
Korea				
Newstar Digital	***	***	***	71.63
All exporters/producers other than	***	***	***	105.61

Newstar Digital				
UAE(All exporters/producers)	***	***	***	100.70
Vietnam	***	***	***	
Ritek Vietnam Co. Ltd.	***	***	***	80.61
All exporters/ producers other than Ritek Vietnam Co. Ltd.	***	***	***	94.29

40. The dumping margins so determined provisionally are significant and above de minimis level.

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

**INJURY DETERMINATION**

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

**Submissions by the Domestic Industry**

42. In view of present and anticipated demand, the domestic industry has enhanced capacity during the current year. Further, the domestic industry has been able to maintain its capacity utilization in spite of significant market share of other countries taken over by the subject countries. Production of the domestic industry has increased in line with increase in capacity. Market share of subject countries increased as a result of significant increase in imports. Consequently, market share of countries attracting anti dumping duties declined and the domestic industry was prevented from raising its market share and gaining back its lost market share. Productivity of the domestic industry increased as a result of increase in capacity and production. The imports are significantly undercutting prices of domestic industry in the market. Resultantly, selling price of the domestic industry, which was increasing till September 2006 as a result of some restrictions on dumping from earlier source, once again stated declining in the current proposed investigation period. The decline in selling price was without any matching decline in cost of production. The imports are thus depressing the prices of subject goods in the market. Profitability of the domestic industry improved with the initiation of investigations against countries earlier dumping. Inventories had started declining after initiation of previous case. However, inventories have once again started increasing and have gone beyond the levels faced earlier. The employment has increased in line with increase in installed capacity. The domestic industry started having positive growth in April-September 2006 period, which once again declined in the proposed period of investigation. With the previous initiation of investigation, the domestic industry has been able to make some fresh investments. However, the domestic industry would not be viable in the long run should the market has significant dumping. It would thus be seen that the domestic industry has once again suffered material injury. The present dumping is grossly undermining the effect and the impact of previous imposition of anti dumping duties. The imports from subject countries increased very significantly in a period of six months and have substituted the imports from other countries. Should the present trend continue, the subject countries would completely substitute and

reach a volume earlier registered from countries now attracting anti dumping duties. The CIF import prices from subject countries are quite low and are in the band of prices earlier reported from countries now attracting anti dumping duties. Resultantly, the domestic industry was once again forced to reduce the prices. The price depression felt by the domestic industry was due to dumped imports. While there was no reduction in cost of production, the decline in the selling prices led to decline in profitability of the domestic industry. The profitability of the domestic industry therefore started declining once again and is once again getting seriously got eroded. Price depression caused by dumped imports resulting in decline in profits once again led to deterioration in return on capital employed and cash flow. It is thus evident that injury to the domestic industry has been caused by the dumped imports.

43. The Authority has noted the views expressed by the above interested parties 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.

### **E.1 Cumulative assessment of injury**

44. 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

45. 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 de minimis;
- iii) The domestic product and product supplied by producers in various countries are like articles;
- iv) Imports from the subject countries are significantly undercutting the prices of the domestic industry in the market;

46. 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.

## **E.2 Examination of Injury and Causal Link**

47. 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.

48. 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.

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

### **Imports**

50. The CD-R is specifically is importable under Customs Tariff Head 8923.90.50, however, the transaction-wise data of imports from Impex Statistics shows that the imports have been made under different custom tariff heads. In the data provided by DGCI&S, the imports made under other than the dedicated classification have not been captured, therefore, data from Impex Statistics have been relied upon for analysis.

## **E.3 Volume Effects of Dumped Imports: Import volumes and market shares**

### **a) Import Volumes**

51. 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.

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

#### **Import Volumes and share of subject country**

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

<b>Imports</b>						
Iran	Lac.Pcs	0	0	0	73.45	58.76
Korea	Lac.Pcs	10	14.3	13.41	91.94	73.55
Malaysia	Lac.Pcs	101.62	72.7	37.84	244.31	195.45
Thailand	Lac.Pcs	4	4.05	7.08	301.9	241.52
UAE	Lac.Pcs	0.17	3.19	6.6	80.58	64.46
Vietnam	Lac.Pcs	0	0	0	396.78	317.42
Countries Already Attracting Duty	Lac.Pcs	956.9	1739.9	1349.7	1248.82	999.06
Other countries	Lac.Pcs	24.62	81.51	27.54	9.67	7.74
Subject Countries	Lac.Pcs	115.79	94.24	64.93	1188.96	951.17
<b>Trend</b>	<b>Indexed</b>	<b>100</b>	<b>81</b>	<b>56</b>	<b>1,027</b>	<b>821</b>
Total Imports	Lac.Pcs	1097.31	1915.7	1442.2	2447.45	1,957.96
<b>Trend</b>	<b>Indexed</b>	<b>100</b>	<b>175</b>	<b>131</b>	<b>223</b>	<b>178</b>
<b>Market Share in Imports</b>						
Iran	%	-	-	-	3.00	3.00
Korea	%	0.91	0.75	0.93	3.76	3.76
Malaysia	%	9.26	3.79	2.62	9.98	9.98
Thailand	%	0.36	0.21	0.49	12.34	12.34
UAE	%	0.02	0.17	0.46	3.29	3.29
Vietnam	%	-	-	-	16.21	16.21
Countries Already Attracting Duty	%	87.20	90.83	93.59	51.03	51.03
Other countries	%	2.24	4.25	1.91	0.40	0.40
Subject Countries	%	10.55	4.92	4.50	48.58	48.58

53. 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 721%. The share of dumped imports from the subject countries has increased from a mere 4.5% in 2005-06 to 48.58% in the POI. The break-up of imports during POI shows that the share from subject countries in April 2006 to September 2006 was 8.87%, rose to 94.51% in Oct.'06-March'07 and further increased to 96.64% in April-June'07. The share of countries attracting anti dumping duty has declined from 93.59% in 2005-06 to 51.03% in the POI during this period, implying that the entire growth of imports are accounted for by the imports from the subject countries.

## ii) Demand, Output and Market shares

### a) Growth In Demand

Demand	Unit	2003-04	2004-05	2005-06	POI	POI Annualised
Domestic Industry	Lac Pcs	2,836.82	4,314.34	4,399.48	6,693.25	5,354.60
Total Imports	Lac Pcs	1,097.31	1,915.69	1,442.20	2,447.44	1,957.95
Other Indian producer	Lac Pcs	638.12	1,006.97	1,491.42	2,510.87	2,008.70
<b>Total Demand</b>	Lac Pcs	4,572.24	7,237.01	7,333.11	11,651.56	9,321.24
<b>Trend</b>	Indexed	100	158.28	160.38	254.83	203.87

54. Demand of subject goods has been determined by addition of domestic sales of domestic industry and all imports from all countries. From the data, trend indicates

that demand for the subject goods had been growing from base year to POI. It grew by 104% during POI (annualised) as compared to base year i.e. 2003-04.

#### b) Production of the Domestic Industry

	Unit	2003-04	2004-05	2005-06	POI	POI Annualised
<b>Capacity</b>	Lac.Pcs	18,800	20,311	18,922	25,630	20,504
Trend	Indexed	100	108.04	100.65	136.33	109.06
<b>Production</b>	Lac.Pcs	15,181	18,972	18,248	22,946	18,357
Trend	Indexed	100	124.97	120.20	151.15	120.92
<b>Capacity Utilisation</b>	%	80.75	93.41	96.44	89.53	89.53
Trend	Indexed	100	115.67	119.42	110.87	110.87

55. Data of domestic industry on capacity, production and capacity utilisation reveals that the capacity of the domestic industry was 18800 Lac Pcs during 2003-04 and increased to 20504 Lac.Pcs during annualised POI. The production of subject goods was 15181 Lac Pcs during 2003-04 after rising in 2004-05 declined to 18248 Lac. Pcs during 2005-06 and increased to 18357 Lac.Pcs during annualised POI.

#### Sales of Domestic Industry

	Unit	2003-04	2004-05	2005-06	POI	POI Annualised
Domestic Industry	Lac Pcs.	2,837	4,314	4,399	6,694	5,355
Trend	Indexed	100	152	155	189	189
Export Sales	Lac Pcs.	11440	13553	13940	15610	12488
Trend	Indexed	100	118	122	109	109
Average Inventory	Lac.Pcs	97	1068	1,993	2,158	2,158
Trend	Indexed	100	1101	2055	2225	2225
No. of days sales	Days	12	90	165	147	147

56. The data on sales indicates that the domestic industry sold 2837 Lac.Pcs of subject goods during 2003-04 and the same increased to 5355 Lac.Pcs during annualised POI. The sale of domestic industry increases to 189% during POI as compared to base year. The average inventory of the domestic industry indicates that the average stock was 97 Lac.Pcs in 2003-04 and increased to 2158 Lac.Pcs during POI. Average inventory in term of number of days of sales it was equivalent to 12 days of sales in 2003-04 and rose to 147 days of sales during POI as compared to base year.

#### Demand and Market Share

	Unit	2003-04	2004-05	2005-06	POI	POI Annualised
<b>Assessed Demand</b>	Lac.Pcs	4,572	7,237	7,333	11,652	9,321
<b>Trend</b>	Indexed	100	158.28	160.38	254.83	203.87
Imports from Subject Countries	Lac.Pcs	116	94	65	1,189	951
Imports from	Lac.Pcs	957	1,740	1,350	1,249	999

Countries attracting ADD						
Imports from Other Countries	Lac.Pcs	25	82	28	10	8
Sales of Domestic Industry	Lac.Pcs	2,837	4,314	4,399	6,693	5,355
Sales of other Indian producers	Lac.Pcs	638	1,007	1,491	2,511	2,009
<b>Market Share in Demand</b>						
Imports from Subject Countries	%	2.53	1.30	0.89	10.20	10.20
Imports from Countries attracting ADD	%	20.93	24.04	18.41	10.72	10.72
Imports from Other Countries	%	0.54	1.13	0.38	0.08	0.08
Sales of Domestic Industry	%	62.04	59.61	59.99	57.45	57.45
Sales of other Indian producers	%	13.96	13.91	20.34	21.55	21.55

57. The demand of subject goods has shown rising trend. It grew by 104% during annualized POI as compared to the base year. The market share of domestic industry which was increasing till 2005-06 has been reduced in the POI. During the same period the share of subject countries has gone up from 2.53% to 10.20%.

**(B) Price Effect of the Dumped imports from subject countries on the Domestic Industry**

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

Export Price	Unit	2003-04	2004-05	2005-06	POI
Subject Countries	Rs./Pc	3.69	2.00	3.18	3.92
Trend	Indexed	100	54.20	86.18	106.23

58. The data on export prices reveal that prices from subject countries have gone up by 6.6% during POI as compared to base year. However, the further analysis of export price during POI shows that in Apr.'06-March.'07 the average price was Rs.4.04/pc, however, it declined drastically to Rs.3.58/pc in 3 months i.e. Apr.'07 - June'07.

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

	Unit	2003-04	2004-05	2005-06	POI
<b>Selling price-DI</b>		***	***	***	***
	Rs/ Pcs				
<b>Trend</b>	<b>Indexed</b>	100	62.54	62.00	67.73
<b>Landed value</b>	Rs/ Pcs	4.09	2.12	3.18	3.92
<b>Trend</b>	<b>Indexed</b>	100	51.77	77.77	95.68
Price Undercutting	Rs/ Pcs.	***	***	***	***
Price Undercutting	%	***	***	***	***
NIP	Rs/ Pcs.				***
Price underselling	Rs/ Pcs.				***
Price underselling	%				***

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

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

54. The trend of selling price indicates that it has decline to 63% in 2004-05, 62% in 2005-06 as compared to base year, however, it decline to 68% during POI as compared to base year. The analysis of selling price during POI (of the major producer of the domestic industry whose data has been verified) further reveals that the decline in selling price was pronounced during Apr.'07 – June'07 when it declined to 58% of the base year.

55. Price undercutting has been determined by comparing the weighted average landed value of dumped imports from the subject countries over the entire period of investigation with the weighted average net sales realization of the domestic industry for the same period. For this purpose landed value of imports has been calculated by adding (for the relevant years) 1% handling charge and applicable basic customs duty to the value reported in the Impex statistics data of import prices from the subject countries. The weighted average undercutting from subject countries during POI was in the range of 25-35%.

56. For the purpose of price underselling determination the weighted average landed prices of imports from subject countries have been compared with the Non-injurious price of the domestic industry determined for the POI. The weighted average underselling was in the range of 75-85% during POI.

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

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

58. The trend of cost of production shows that weighted average cost of sale declined by Rs.0.81/pc during POI as compared to base year whereas the selling price has declined by Rs.2.55/pc during the same period indicating that the domestic industry was under tremendous pressure to reduce the prices because of dumped imports.

#### E.4 Examination of other Injury Parameters

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

#### Profits and actual and potential effects on the cash flow

	Unit	2003-04	2004-05	2005-06	POI
Sales (NSR)	Rs./Pcs	***	***	***	***
Trend	Indexed	100.00	62.54	62.00	67.73
Cost of production	Rs./Pcs	***	***	***	***
Trend	Indexed	100.00	84.75	90.62	87.53
Profit	Rs./Pcs	***	***	***	***
Trend	Indexed	100	(41.55)	(72.16)	(25.11)
Profits – PBIT	Rs./Pcs	***	***	***	***
Trend	Indexed	100	(23.15)	(42.95)	(4.58)

60. The data indicate that weighted average cost of production of the domestic industry declined to 85% in 2004-05, 91% in 2005-06 and 88% during POI as compared to base year whereas during the same period the weighted average net selling price declined to 63% in 2004-05, 62% in 2005-06 and 68% during the POI. The profit per unit which was 100 (indexed) in the base year turned to loss of 41.55 in 2004-05, 72.16 in 2005-06 and 25.11 during POI. Further analysis of POI shows that loss per unit (of the major producer whose data has been verified) increased substantially in Apr-June'07. The profit (PBIT) of domestic industry which was 100 (indexed) in 2003-04 turned to loss of 23.15 in 2004-05, 42.95 in 2005-06 and 4.58 during POI.

#### Return on investment

	Unit	2003-04	2004-05	2005-06	POI Annualised
Assets (NFA)	Rs.Lacs	***	***	***	***
Trend	Indexed	100.00	129.83	92.54	102.26
Working Capital	Rs.Lacs	***	***	***	***
Trend	Indexed	100.00	99.18	75.79	122.57
Capital Employed (NFA)	Rs.Lacs	***	***	***	***

Trend	Indexed	100.00	119.41	86.84	109.16
PBIT	Rs.Lacs	***	***	***	***
Trend	Indexed	100.00	(35.21)	(66.61)	(0.08)
Return on capital employed	%	***	***	***	***
Trend	Indexed	100	(29.53)	(76.71)	(0.10)

61. The data on capital employed shows that as compared to base year it increased by 19% in 2004-05, and 9% during POI. The increase in capital employed was due to increase in fixed assets and working capital.

### Employment

	Unit	2003-04	2004-05	2005-06	POI
Employees	No	***	***	***	***
<b>Trend</b>	<b>Indexed</b>	100.00	119.89	130.55	153.75

62. The manufacturing facility of the domestic industry manufacture both subject goods and other products not covered in this investigation. The number of employees has been taken for plant as a whole. The above data shows that number of employees has increased by 54% during POI as compared to base year.

### Productivity

63. The manufacturing facility is common for product under consideration and other products, therefore, it is not possible to assess the production per employee for the subject goods.

### viii) Inventories

	Unit	2003-04	2004-05	2005-06	POI
Average Inventory	Lac.Pcs	97	1068	1,993	2,158
Trend	Indexed	100	1101	2055	2225

64. The above data shows that the average inventory increased approx. 4 times during POI as compared to base year. The average inventory was equivalent to 12 days of sales in 2003-04 and increased to equivalent of 147 days during POI.

### Growth

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

### v) Investment

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

#### **vi) Magnitude of Dumping**

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

#### **vii) Factors affecting prices**

68. The Authority notes that Landed values of imported material from subject countries are significantly below the selling price of the domestic industry, causing price undercutting in the Indian market. The undercutting during POI was significant.

### **E.5 Conclusion on injury parameters**

69. The examination of above injury parameters indicates that growth in demand was 104% during POI (annualized) as compared to base year. During the same period the production of the domestic industry grew by 21%, sales by 89%. However, the average inventory also grew by 4 times. The share of the domestic industry which was 62.04% in 2003-04 fell to 57.45% during POI.

70. The cost of sales has declined to 88% in POI as compared to base year whereas the net selling price declined to 68% during the same period. The cost of sales reduced by Rs.0.81/pc during POI as compared to base year where the selling price reduced by Rs.2.55/pc during the same period, impacting the profitability. The profit per unit which was 100 (indexed) in the base year turned to loss of 25.11 during the POI. The Profit Before Interest (PBIT) which was 100 (indexed) in the base year turned to loss of 4.58 during POI. Similarly, the return on investment shows negative return during POI as compared to positive in the base year.

71. The analysis of above economic parameters indicate that the domestic industry has suffered material injury.

### **E.6 Other Known factors and Causal Link**

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

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

73. During POI, imports from countries not under investigation are insignificant and at prices higher than the import prices from the subject countries. The dumped imports from some other countries already investigated are subjected to anti-dumping duty to offset the effect of dumped imports, therefore, cannot be considered as a factor causing injury to the domestic industry.

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

74. Because of development of further technology and new product in the market, the consumption pattern of the subject goods is undergoing change. However, in India the subject goods have shown robust growth during the injury period. The total demands of subject goods have shown growth of 155% during Period of Investigation as compared to the base year.

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

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

**iv) Export performance**

Particulars	Unit	2003-04	2004-05	2005-06	POI	POI Annualised
Export Sales	Lac Pcs.	11440	13553	13940	15610	12488
Trend	Indexed	100	118	122	109	109

76. The Authority notes that the export volume of the domestic industry has been increasing till 2005-06, however, it declined by 10.4% during POI as compared to preceding year. The Authority also notes that because of decline in export performance, the available stock has increased for the domestic sales. However, the domestic industry could not retain the market share in demand. The Authority also notes that the analysis of financial performance for the injury period has been done for the domestic sales only. Therefore, decline in export performance cannot be considered as a factor causing injury to the domestic industry.

**v) Productivity of the Domestic Industry**

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

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

**Causal Link**

79. The domestic industry was facing dumped imports from other countries for which anti-dumping duties were imposed on 6.10.2006. After imposition of anti-dumping duty, the dumped imports started coming from other countries for which the domestic industry requested for this investigation. The foregoing analysis indicates that the volume of dumped imports from the subject countries have increased substantially both in absolute terms as well as in relation to the share in demand. Despite strong growth in demand the growth of imports from subject countries have significantly displaced the market share of the domestic industry. . The weighted average landed value from subject countries in 2006-07 was Rs.4.04/pc which declined to Rs.3.58/pc in Apr.'07 to June'07. The net selling price of the domestic industry during the same period declined by Rs.0.80/pc The landed value of dumped imports from the subject countries also show a significant price undercutting and

underselling on the prices of the domestic industry compelling the domestic industry to benchmark its prices to imports indicating that the domestic industry was forced to reduce their prices

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

#### **F. Conclusions**

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

A. The subject goods have been exported to India from the subject countries below its normal value;

B. The domestic industry has suffered material injury;

C. The injury has been caused by the dumped imports from subject countries.

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

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

#### **H. Recommendations**

83. 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 margins against the subject countries, as well as material injury to the domestic industry caused by such dumped imports, the Authority is of the view that imposition of provisional duty is required to offset dumping and injury pending completion of the investigation.

84. 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.

85. 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 8 of the table below is recommended to be imposed from the date of notification to be issued in this regard by the Central Government, on all imports of subject goods originating in or exported from the subject countries.

### Duty Table

Sl. No	Tariff Item	Description of Goods	Country of Origin	Country of Export	Producer	Exporter	Amount	Unit of Measurement	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1.	8523.90.50	Compact Disc – Recordable (CD-R) Write once read many times	Thailand	Thailand	M/s Panstar Electronics Co. Ltd.	M/s Panstar Electronics Co. Ltd.	0.74	Per piece	INR
2.	Do	Do	Thailand	Thailand	M/s Panstar Electronics Co. Ltd.	Any Other than above	0.74	Per piece	INR
5.	Do	Do	Thailand	Thailand	Any other than above	Any other than above	1.11	Per piece	INR
6.	Do	Do	Thailand	Any country other than Thailand	Any	Any	1.11	Per piece	INR
7.	Do	Do	Any country other than subject countries	Thailand	Any	Any	1.11	Per piece	INR
12.	Do	Do	Vietnam	Vietnam	M/s Ritek Vietnam Co. Ltd.	M/s Ritek Vietnam Co. Ltd.	3.04	Per piece	INR
13.	Do	Do	Vietnam	Vietnam	M/s Ritek Vietnam Co. Ltd.	Any other than above	3.04	Per piece	INR
14.	Do	Do	Vietnam	Vietnam	Any other than above	Any other than above	3.23	Per piece	INR
15.	Do	Do	Vietnam	Any country other than Vietnam	Any	Any	3.23	Per piece	INR
16.	Do	Do	Any country other than subject countries	Vietnam	Any	Any	3.23	Per piece	INR
12.	Do	Do	Korea	Korea	M/s Newstar Digital	M/s Newstar Digital	2.51	Per piece	INR
13.	Do	Do	Korea	Korea	M/s Newstar Digital	Any other than above	2.51	Per piece	INR
14.	Do	Do	Korea	Koera	Any other than above	Any other than above	3.09	Per piece	INR
15.	Do	Do	Korea	Any country other than Korea	Any	Any	3.09	Per piece	INR
16.	Do	Do	Any country other than subject countries	Korea	Any	Any	3.09	Per piece	INR
17.	Do	Do	Iran	Iran	Any	Any	2.63	Per piece	INR
18.	Do	Do	Iran	Any country other than Iran	Any	Any	2.63	Per piece	INR
19.	Do	Do	Any country other than subject countries	Iran	Any	Any	2.63	Per piece	INR

20.	Do	Do	Malaysia	Malaysia	Any	Any	2.27	Per piece	INR
21.	Do	Do	Malaysia	Any country other than Malaysia	Any	Any	2.27	Per piece	INR
22.	Do	Do	Any country other than subject countries	Malaysia	Any	Any	2.27	Per piece	INR
20.	Do	Do	UAE	UAE	Any	Any	3.08	Per piece	INR
21.	Do	Do	UAE	Any country other than UAE	Any	Any	3.08	Per piece	INR
22.	Do	Do	Any country other than subject countries	UAE	Any	Any	3.08	Per piece	INR

## I. Further Procedures

86. 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, applicants 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 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.

R Gopalan  
The Designated Authority