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Government of India
Ministry of Commerce & Industry
Department of Commerce
(Directorate General of Anti Dumping & Allied Duties)
F. No. 15/5/2012

Date: 15th October, 2013

Final Finding

Subject: Mid-Term Review (MTR) investigation with regard to anti-dumping duties imposed on imports of Recordable Digital Versatile Disc [DVD] of all kinds originating in or exported from Vietnam- Final Finding

F No 15/5/2012-DGAD - Having regard to the Customs Tariff Act, 1975 as amended (hereinafter referred to as Act) and the Customs Tariff (Identification, Assessment and Collection of Duty on Dumped Articles and for Determination of Injury) Rules, 1995 as amended (hereinafter referred to as Rules), the Designated Authority (hereinafter referred to as Authority) initiated a midterm review of antidumping duty imposed on "Recordable Digital Versatile Disk (DVD) of all kinds (hereinafter referred to as subject goods) from Vietnam (hereinafter referred to as subject country) on 16th August, 2012 to review the need for continued imposition of anti dumping duty, and whether the quantum of anti dumping duty is required to be modified in accordance with the Customs Tariff (Amendment) Act, 1995 and AD Rules. It is recalled that the original investigation was initiated on 5th May, 2009 against imports of Recordable Digital Versatile Disk (DVD) of all kinds originating in or exported from Malaysia, Thailand and Vietnam. The provisional antidumping duty was imposed on imports of subject goods from Malaysia, Thailand and Vietnam vide Customs notification no. 48/2010-CUS dated 12th April, 2010 on the basis of the preliminary findings of the Authority issued on 13th November 2009. The final findings was notified vide notification dated 2nd July 2010 and the Department of Revenue imposed definitive anti dumping duties on the subject goods from Malaysia, Thailand and Vietnam vide notification no. 98/2010-CUS dated 28th September, 2010.

2. And whereas the Rules require the Authority to review, from time to time, the need for continued imposition of Anti-Dumping Duty and if satisfied, on the basis of positive information received that there is no justification for continued imposition of such duty, the authority may recommend to the Central Government appropriately. In terms of the said provision, the Designated Authority received an application from M/s Storage Media Products Manufacturers & Marketers Welfare Association (hereinafter also referred to as the applicant or petitioner) representing domestic industry substantiating the need for midterm review of the anti dumping duty imposed on the subject goods originating in or exported from Vietnam (referred to the subject country)

and requesting for enhancement / revision of the anti dumping duty imposed on subject goods from subject country. The domestic industry, amongst the various grounds, submitted that circumstances that were prevalent during the period of investigation of the original investigation have changed significantly leading to a situation when anti dumping duty on imports of subject goods from Vietnam is lower than the dumping margin and injury margin that is prevailing at present and requested for upward revision in the quantum of anti dumping duty. This change in circumstances was considered appropriate to initiate a review.

3. Having decided to review the final findings notified vide Notification No 14/16/2009-DGAD dated 2nd July 2010, the Authority initiated midterm review investigations on 16th August 2012 under the provisions of Section 9A(5) of the Customs Tariff (Amendment) Act, 1995, as amended, read with Rule 23 of Anti Dumping Rules to review the need for continued imposition of anti dumping duty in respect of imports from Vietnam and whether the form or quantum of anti dumping duty is required to be modified in accordance with the Customs Tariff (Amendment) Act, 1995 and AD Rules. The Central Government accorded permission for extension of time up to 15th October 2013 for completing the subject antidumping investigation and notifying the final findings.

Procedure

4. The procedure described below has been followed with regard to the investigation:
 - i. After initiating the review, the Authority sent copies of initiation notification to the Embassy of the subject country in India, known exporters from the subject country, importers and the domestic industry as per the addresses available, and requested them to make their views known in writing within 40 days of the initiation notification.
 - ii. The Authority provided copies of the non-confidential version of the application to the known exporters and to the Embassy of subject country in accordance with Rule 6(3) supra.
 - iii. The Authority sent questionnaire, along with the initiation notification, to all known producers and/or exporters in the subject country in accordance with the Rule 6(4) to elicit relevant information. However none of the exporters/producers from the subject countries filed response to the questionnaire.
 - iv. The relevant questionnaires were sent to known importers of subject goods in India calling for necessary information in accordance with Rule 6(4). However, none of importers filed any response to questionnaire in the form and manner prescribed.
 - v. Investigation was carried out for the period starting from 01.04.2011 to 31.03.2012 (POI). However, injury examination was conducted for a period from 2008-09 to the end of POI.
 - vi. Request was made to the Director General of Commercial Intelligence and Statistics (DGCI&S), Kolkata to arrange details of imports of subject goods in India for the

period of investigation and preceding three years. Information was received from the DGCI&S and the same has also been examined by the Authority.

- vii. The Authority held an oral hearing on 1st May, 2013 to provide an opportunity to the interested parties to present relevant information orally in accordance to Rule 6(6), which was attended by member of Storage Media Products Manufacturers & Marketers Welfare Association representing domestic industry. The parties attending the public hearing were advised to file written submissions of the information presented orally. Authority has considered these written submissions received from interested parties. However, none of the producers/exporters or importers from the subject country attended the public hearing and have not made any submissions. Arguments raised and information/evidence provided by the interested parties during the course of the investigation, to that extent the same are considered relevant to the present investigation, have been appropriately considered by the Authority.
- viii. The Authority during the course of investigation satisfied itself as to the adequacy and accuracy of the information supplied. For that purpose, the Authority conducted on-the-spot verification of the domestic industry to the extent considered relevant and necessary. Additional/ supplementary details regarding injury were sought from the domestic industry, which were also received.
- ix. In accordance with Rule 16 of the Rules supra, the essential facts/basis considered for these findings were disclosed to known interested parties and comments received on the same have been considered in this final finding.
- x. The Authority made available non-confidential version of the evidence presented by the interested parties through a public file maintained by the Authority and kept open for inspection by the interested parties as per Rule 6(7).
- xi. Cost investigations were conducted to work out optimum cost of production and cost to make and sell the subject goods in India on the basis of Generally Accepted Accounting Principles (GAAP) was worked out in accordance with Annexure III of the anti dumping rules so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to Domestic Industry
- xii. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigations, or has significantly impeded the investigation, the Authority has recorded finding on the basis of the facts available.
- xiii. Information provided by interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has granted confidentiality, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.
- xiv. *** in the final finding represents information furnished by interested parties on confidential basis and so considered by the Authority under the Rules.

- xv. The exchange rate taken in this investigation is Rs 48.14 for 1 US\$.

PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE:

5. The product involved in the original investigation and in the present midterm review investigation is “Recordable Digital Versatile Disc [DVD] of all kinds”. DVD can be of a number of types, such as DVD-R, DVD+R, DVD-RW, DVD+RW, mini DVD-R, mini DVD-RW. A DVD can be recorded once or several times. DVD-R and DVD+R discs can be either single or double-sided. A single-sided (SS) disc is composed of a recording side and a dummy side while a double-sided (DS) disc consists of two recording sides. The recording side of a DVD-R and DVD+R disc is a sandwich of a number of layers.

C.1 Views of the Importers, Consumers, Exporters and Other Interested Parties

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

C.2 Views of the Domestic Industry

7. Present investigation is a mid-term review investigation. The Designated Authority has examined the issue of product under consideration and like article in the previous investigations, which is relied upon. The petitioner requested the Designated Authority to consider and uphold the findings of the previous investigations on product under consideration and like article.

C.3 Examination By The Authority

8. The product involved in the original investigation and in the present midterm review investigation is “Recordable Digital Versatile Disc [DVD] of all kinds”. DVD can be of a number of types, such as DVD-R, DVD+R, DVD-RW, DVD+RW, mini DVD-R, mini DVD-RW. A DVD can be recorded once or several times. DVD-R and DVD+R discs can be either single or double-sided. A single-sided (SS) disc is composed of a recording side and a dummy side while a double-sided (DS) disc consists of two recording sides. The recording side of a DVD-R and DVD+R disc is a sandwich of a number of layers.
- Mastering : A process of forming a master for optical disks, generally referred to as "mastering", is where a nickel or the like metallic master, i.e., "stamper", is formed at its final step. A large number of optical disks are duplicated with use of the stamper as a mold in a succeeding molding process.
 - Moulding: First comes a polycarbonate plastic substrate containing a shallow spiral groove extending from the inside to the outside diameter of the disc.

- Dye Coater: In this section an organic dye recording layer (AZO) is applied on blank substrate . This layer acts as recording layer. Dye is applied using spin coating and the metal layers by means of DC sputtering.
 - Sputter (Metallizing): A metal reflective layer is applied on disc (silver).
 - Bonding: An adhesive then bonds two recording sides (for a double-sided) or a recording and dummy side (for a single-sided) together into the final disc. Some single-sided discs are also topped on the dummy side with decorations or additional layers that provide surfaces suitable for labeling by inkjet, thermal transfer or re-transfer printers. Bonding is done by using a hot melt, UV cationic or free radical process
 - Printing: Then required printing design is applied by screen printing method.
 - Construction of DVD-RW and DVD+RW: To allow information to not only be written but also re-written many times over, DVD-RW, DVD+RW) disc construction is more complex than that of DVD-R and DVD+R (recordable). Just like a recordable disc, a rewritable disc can be either single or double-sided. The recording side of a rewritable disc also uses multiple layers beginning with a polycarbonate plastic substrate containing a shallow spiral groove extending from the inside to the outside diameter of the disc.
 - Next comes a dielectric layer (zinc sulfide and silicon dioxide), followed by a phase-change alloy recording layer (either indium, silver, tellurium and antimony or germanium, tellurium and antimony), another dielectric layer and a metal reflective layer (silver, silver alloy, aluminum). Additional layers may also be incorporated above or below the dielectric layers (germanium nitride, silicon carbide, silicon dioxide, silicon nitride, zinc sulfide, antimony telluride and others).
 - The dummy side consists of a flat polycarbonate plastic substrate sometimes with an additional metal layer. An adhesive then bonds the sides together into a single disc.
9. The product is classified under Chapter 85 of the Customs Tariff Act under custom subheading no. 85232920, 85232950, 85232970, 85234040, 85234050, 85234060; 85234080, 8523409, 85238090, 85235290, 85238050, 85239010, 85239040, 85239050 and 85239090. However, the said Customs classification is indicative only and in no way binding on the scope of the present investigation.
 10. Having regard to the evidence on record and initiation notification, the Authority considers it appropriate to keep the scope of the product under consideration to the same as was considered before.
 11. In order to determine whether goods produced by the domestic industry can be considered like article to the goods produced and/or exported from the subject countries, it is noted that the issue has been examined by the Authority and no submissions has been received by the Authority, opposing previous determination of the Authority. The Authority, after due examination, holds that the material produced by the domestic industry is like article to the goods imported or produced in subject countries within the meaning of the Rules.

D. DOMESTIC INDUSTRY

12. The petition was filed by M/s. Storage Media Products Manufacturers & Marketers Welfare Association on behalf of the domestic industry. One of its member companies, M/s. Moser Baer India Ltd has provided relevant financial information.

D.1 Views Of Domestic Industry

13. The petition was filed by Storage Media Products Manufacturers & Marketers Welfare Association on behalf of the producers of Recordable Digital Versatile Disk (DVD) of all kinds. One of its member companies M/s. Moser Baer India Ltd has provided relevant financial information to file the application for the review and enhancement of anti dumping duty in force on imports of DVD from Vietnam. From the mentioned data in the petition, it is evident that - (a) the Petitioner's production accounts for major proportion in Indian production; (b) the application has been made by or on behalf of the Domestic Industry. In view of the foregoing, it was submitted that the Petitioner satisfy the requirement of standing to file the petition. Petitioner Company constitutes 'Domestic Industry' in terms of AD Rules

D.2 Views of the Exporters, Importers, Consumers and Other Interested Parties

14. None of the importers, consumers, exporters or other interested parties have made any comment or submissions with regard to the standing of the petitioner and its consideration as domestic industry.

D.3 Examination by the Authority

15. Rule 2 (b) of the AD rules defines domestic industry as under:

"(b) "domestic industry" means the domestic producers as a whole engaged in the manufacture of the like article and any activity connected therewith or those whose collective output of the said article constitutes a major proportion of the total domestic production of that article except when such producers are related to the exporters or importers of the alleged dumped article or are themselves importers thereof in such case the term 'domestic industry' may be construed as referring to the rest of the producers"

16. The review investigation has been initiated on the basis of a duly substantiated request submitted by M/s. Storage Media Products Manufacturers & Marketers Welfare Association in terms of Rule 23 of the Rules. M/s. Moser Baer India Ltd has provided relevant financial information to file the application for the review and enhancement of anti dumping duty in force on imports of DVD from Vietnam. No objection have been received from any interested party on the claim and status of the petitioner. The information available on records establishes that the production of the petitioner constitutes a major proportion (87%) in Indian production and no other domestic producer

has provided relevant information despite opportunity having been provided to them. The other producers i.e Euro Multivision Ltd, Jupital international Ltd, Nextstar Digital account of balance 13% of the Indian production. The Authority therefore holds that the petitioner constitutes domestic industry within the meaning of Rule 2(b) of the rules supra.

E. DUMPING MARGIN

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

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

E.1 Views of Domestic Industry

18. The views of the domestic industry in this regard are as follows:

- a) None of the exporters/producers from subject country have responded to the questionnaire issued by the Authority. Exporters/producers should therefore be considered non-cooperative as per Rule 6(8) and the Authority should proceed according to the best information available.
- b) The major exporter from Vietnam namely M/s Ritek Vietnam Co. Ltd has responded in all the investigations conducted by the Designated Authority on the product under consideration and on CDRs barring the present investigation. This clearly shows that the company is well aware that they are dumping the product in the Indian market but has preferred non cooperation with the Designated Authority in the present investigation
- c) Change in normal value or export price in itself is sufficient to constitute changed circumstance. In the instant case, it is not only change in the normal value or export price alone, both the parameters have undergone a change. While normal value has

increased, the export price has declined. Thus, the dumping margin has undergone a significant change.

- d) Petitioner has considered the changes in the normal value on the basis of changes in the cost of production due to change in price of polycarbonate, which constitutes the substantial
- e) There is almost 34% drop in the import price of DVD from Vietnam. This drop in the prices is despite the facts that (a) polycarbonate constitutes almost 61% of raw materials costs, (b) materials cost forms the sustainable part of the cost of production, (c) polycarbonate prices have increased in US\$ terms by 15%. Evidently, the decline in the prices is not driven by cost declines. The decline in prices is a clear reflection of intensified dumping of the product in the Country.
- f) Dumping margin has increased significantly after the previous investigation

Comments of the domestic industry after issuance of Disclosure statement

19. The following are the comments on the disclosure statement.

- a. The dumping margin and injury margin in the present investigation period is much higher than the dumping margin and injury margin that has prevailed at the time of original investigation.
- b. The Ritek has responded in the original investigation but has not cooperated in the present investigations. The Designated Authority should apply best available information to determine injury.
- c. The present midterm review was sought in view of intensified dumping and injury. The disclosure statement establishes that dumping has intensified and the domestic industry is suffering injury.
- d. Whereas cost of production has increased because of increase in raw material prices, import price has declined. The exporter has thus absorbed the anti dumping duty.
- e. The current quantum of anti dumping duty is required to be enhanced.
- f. The anti dumping duty may be recommended on fixed quantum basis, expressed in US\$, considering that the existing duty is on fixed amount basis.

E.2 Views of the Exporters, Importers, Consumers and Other Interested Parties

20. None of the importers, consumers, exporters or other interested parties has made any comment or submissions with regard to the dumping margin determination.

E.3 Examination by the Authority

21. The Authority has examined the issues raised by interested parties in the appropriate headings in this final findings.

Normal Value in Vietnam

22. The Authority notes that none of the producers/exporters from Vietnam has filed any response. As information about actual domestic sales price, information on exports to third country or cost of production in Vietnam and other information as per the questionnaire have not been furnished by any producer/exporter in that country; the Authority has relied upon the best available information for determination of normal value. The petitioner has provided details of normal value in Vietnam on the basis of constructed cost of production.
23. In the absence of any response from the exporters in the form and manner prescribed, the Authority has determined normal value in Vietnam on the basis of estimates of cost of production in accordance Section 9A(1)c read with Rule 6(8) supra. It is noted in this regard that there is no publicly available information with regard to price of the subject goods in the subject country. There is no information on records or available with regard to export price of DVD-R from other countries to Vietnam as subject goods do not have a dedicated ITC HS code only for DVD –R. In view of the above, the Authority has constructed the normal value by taking prices of major inputs on the basis of prevailing international price. Consumption of raw materials per unit of production and the conversion costs have been considered on the basis of best information/data available on record. Selling, general & administrative costs have been taken on the basis of best information/data available on record. Profit has been taken @ 5% of ex-factory costs, excluding interest. The normal value so determined is mentioned in the dumping margin table.

E.4 Export price

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

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

25. None of the producers/exporters of the product under consideration from Vietnam has responded to the Designated Authority. In the absence of cooperation from the foreign

producers/exporters, the export price from Vietnam has been determined on the basis of the transaction-wise imports data provided by Impex Statistics. The adjustments on account of ocean freight, marine insurance, inland freight, port expenses, handling charges, clearing charges and bank charges have been made to determine the net export price. By above methodology, the net export price has been calculated which is mentioned in the dumping margin table.

E.5 Dumping Margin

26. The dumping margin has been established on the basis of a comparison of weighted average normal value with weighted average export price. The dumping margin for exports of the subject goods from the subject countries is assessed as given in the table below:

Dumping Margin Calculation:

| Vietnam – Subject Country | POI (US\$/'000'Pcs) |
|---------------------------|------------------------|
| Normal value | *** |
| Net Export Price | *** |
| Dumping margin | *** |
| Dumping margin % | *** |
| Dumping margin % (Range) | 105-115% |

METHODOLOGY FOR INJURY DETERMINATION AND EXAMINATION OF INJURY AND CAUSAL LINK

F.1 VIEWS OF THE DOMESTIC INDUSTRY

Submissions by domestic industry

27. The domestic industry has submitted that
- a. There are significant volumes of subject goods which are being imported at dumped prices in spite of anti dumping duty being in force.
 - b. Existing measure are no longer sufficient to counteract the dumping which is causing injury.
 - c. Imports are undercutting the domestic prices. Such price undercutting is resulting in significant suppression of the prices of the domestic industry in the market. The effect is

such that the domestic industry is selling the product under consideration below cost thereby suffering losses.

- d. Production and sales of the domestic industry has shown some improvement up to 2009-10 but thereafter declined in the year 2010-11 and during period of investigation.
- e. The capacity utilization increased upto 2010-11 but declined significantly during period of investigation.
- f. The present duty is unable to address the dumping and consequent injury to the domestic industry with respect to subject country
- g. Domestic industry continued to suffer financial losses during the injury period despite anti-dumping duty in existence. The petitioner submits that if the duty imposed was adequate to address dumping and consequent injury then the industry would have been in far healthier situation than what has been witnessed by it at present.
- h. Cash profits of the domestic industry has increased in the year 2009-10 but thereafter declined
- i. Employment level and wages paid of the domestic industry has declined during period of investigation. productivity has moved in tandem with production
- j. Inventory levels, which increased till 2010-11 declined during POI. However, inventory levels with the domestic industry continued to be significant.
- k. Production, sales and capacity utilization of the domestic industry has shown deterioration despite existing anti dumping duty on dumped imports. Profits and return on investments continued to be negative.
- l. If the duty imposed was adequate to address dumping and consequent injury then the industry would have been in far healthier situation than what has been witnessed by it at present.
- m. In the event the existing measures are not revised, dumped imports would aggravate the injury caused to the domestic industry.
- n. Given the pricing followed by domestic industry, should the present anti-dumping duties not be enhanced, imports from the subject country shall continue to cause significant price undercutting. Should the current situation continue, the only available option with the domestic industry would be to take price correction/reduction, which would lead to further price depression in the market;
- o. Should the domestic industry further reduce its price, its profitability, return on investment and cash flow would be further adversely affected.
- p. Various parameters relating to domestic industry collectively and cumulatively establish that the domestic industry has suffered material injury.

E.2 Views of the Exporters, Importers, Consumers and Other Interested Parties

28. None of the importers, consumers, exporters or other interested parties has made any comment or submissions with regard to the injury determination.

F.3 EXAMINATION BY THE AUTHORITY

29. 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 of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to suppress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.
30. 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.
31. The present investigations are midterm review investigations of anti dumping duties in force. Rule 23 provides that provisions of Rule 11 shall apply, mutates mutandis basis, in case of a review as well. The Authority has therefore determined injury to the domestic industry considering, mutates mutandis, the provisions of Rule 11 read with Annexure II. Further, since anti dumping duties are in force on imports of the product under consideration, the Authority considers that the fact of existing anti dumping duties on the product on imports from subject country is required to be considered while examining injury to the domestic industry. The Authority has examined whether existing measure is not sufficient to counteract the dumping which is causing injury. For the purpose of current injury analysis, the Authority has examined the volume and price effects of the dumped imports on the domestic industry.
32. The Authority has analyzed injury parameters in accordance with the rules. Information provided by domestic industry on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has granted confidentiality, wherever warranted, and such information has been treated confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non confidential version of the information filed on confidential basis.

Volume of Dumped Imports

33. With regard to 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. Annexure II (ii) of the anti dumping rules provides as under:

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

Imports of the product under consideration were as follows over the injury period

| Imports -Volume | Unit | 2008-09 | 2009-10 | 2010-11 | POI |
|-------------------------------------|---------|---------|---------|---------|-----|
| Vietnam - Subject Country | Lac.Pcs | 576 | 521 | 223 | 276 |
| Countries already attracting duties | Lac.Pcs | 469 | 350 | 135 | 18 |
| Other Countries | Lac.Pcs | 107 | 122 | 175 | 280 |
| Total Imports | Lac.Pcs | 1,151 | 993 | 533 | 574 |

34. It is noted that imports from subject country declined till 2010-11 but thereafter increased during period of investigation. It is noted that though the volume of imports of subject goods has declined during the POI from base year, the volume of imports from subject country is significant even after imposition of anti dumping duty. Imports from third countries had either negligible share in total imports of the subject goods in the Country or their export prices were higher.

Assessment of demand and market share

35. Domestic consumption/demand of the product under consideration has been determined considering sales volume of the domestic industry and other Indian producers and imports into India. The domestic industry had submitted transaction wise import information from secondary sources. During the course of investigation, transaction wise information on imports was sought from DGCI&S, which was received and has been examined. The Authority has also examined the transaction- wise import data provided by the petitioner from IMPEX Statistics Services. The transaction-wise data reported in the IMPEX Statistics data has been relied upon to determine the volume value of imports of subject goods from various sources for the purpose of present review as the volume of imports reported from IMPEX statistics is higher (on account of imports of subject goods reported from different customs tariff heads) . Demand so assessed is as follows –.

| Demand | Unit | 2008-09 | 2009-10 | 2010-11 | POI |
|-------------------------------------|---------|---------|---------|---------|-------|
| Sales of Domestic Industry | Lac.Pcs | 3,604 | 5,926 | 5,621 | 5,576 |
| Sales of Other Indian Producers | Lac.Pcs | 0 | 0 | 422 | 836 |
| Vietnam - Subject Country | Lac.Pcs | 576 | 521 | 223 | 276 |
| Countries already attracting duties | Lac.Pcs | 469 | 350 | 135 | 18 |
| Other Countries | Lac.Pcs | 107 | 122 | 175 | 280 |
| Total Demand/Consumption | Lac.Pcs | 4,755 | 6,919 | 6,575 | 6,986 |

36. It is seen that the demand of the product in India has increased over the period. The Authority notes that whereas the imports from the subject country have increased during period of investigation from previous year (imports have declined from base year to the POI) , sales of the domestic industry increased up to 2009-10 and declined thereafter in the POI.

Price Effect

37. With regard to the effect of the dumped imports on prices, Annexure II (ii) of the Rules lays down as follows:

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

38. With regard to the effect of the dumped imports on prices, it has been examined 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. A comparison for product concerned was made between the landed value of exported product and the average selling price of the domestic industry. Selling price of the domestic industry has been determined net of all rebates and taxes, at the same level of trade.

Price undercutting

39. The price undercutting margin is determined as below

| Undercutting without ADD-Subject Country | Unit | 2008-09 | 2009-10 | 2010-11 | POI |
|------------------------------------------|--------|---------|---------|---------|-------|
| Landed price of imports | Rs/Pc. | 4.72 | 4.43 | 3.31 | 3.27 |
| Net Selling Price | Rs/Pc. | *** | *** | *** | *** |
| Price Undercutting | Rs/Pc. | *** | *** | *** | *** |
| Price Undercutting | % | *** | *** | *** | *** |
| Price Undercutting (Range) | % | 15-25 | 15-25 | 35-45 | 45-55 |

40. In this regard, Authority notes as under:

- a. Imports are significantly undercutting the prices of the domestic industry.

- b. The levels of price undercutting increased over the injury period.
- c. The levels of price undercutting have increased significantly since 2008-09 which was also the period of investigation for the original case.

Price suppression, depression and Price underselling

41. The cost and price movement of the domestic industry have been compared over the injury period to examine whether the effect of dumped imports is to depress prices to a significant degree or prevent price increases which otherwise would have occurred to a significant degree.

| Particular | Unit | 2008-09 | 2009-10 | 2010-11 | POI |
|-------------------------|---------|---------|---------|---------|------|
| Landed price of imports | Rs/Pc. | 4.72 | 4.43 | 3.31 | 3.27 |
| <i>Trend</i> | Indexed | 100 | 94 | 70 | 69 |
| Cost of Production | Rs/Pc. | *** | *** | *** | *** |
| <i>Trend</i> | Indexed | 100 | 83 | 92 | 100 |
| Selling Price | Rs/Pc. | *** | *** | *** | *** |
| <i>Trend</i> | Indexed | 100 | 95 | 100 | 113 |

42. It is seen that the imports of subject goods from subject country are suppressing the price of the domestic industry to such an extent that the domestic industry is forced to sell the product under consideration at prices significantly below cost of production thereby leading to financial losses. There is no price depression noted during the injury period.

| Particular | Unit | 2008-09 | 2009-10 | 2010-11 | POI |
|-------------------------|---------|---------|---------|---------|------|
| Landed price of imports | Rs/Pc. | 4.72 | 4.43 | 3.31 | 3.27 |
| <i>Trend</i> | Indexed | 100 | 94 | 70 | 69 |
| Cost of Production | Rs/Pc. | *** | *** | *** | *** |
| <i>Trend</i> | Indexed | 100 | 83 | 92 | 100 |
| Polycarbonate Cost | Rs/Pc. | *** | *** | *** | *** |
| <i>Trend</i> | Indexed | 100 | 76 | 103 | 117 |
| Polycarbonate Price | Rs/Kg | *** | *** | *** | *** |
| <i>Trend</i> | Indexed | 100 | 83 | 111 | 125 |

43. The Authority notes that the Anti-Dumping duty on the subject goods from the subject country was imposed in April'2010. Subsequent to the levy of Anti Dumping Duty, a significant decline in the landed value of imports from subject country has been noted. This is despite the increase in the price of major raw material i.e polycarbonate used in the manufacture of DVD-R.

44. The Non-injurious Price for the subject goods has been compared with the landed value of the exports of subject goods from the subject country for determination of price underselling. The price underselling margin during POI is considered significant.

| | | |
|---------------------------|---------|--------------|
| Vietnam (Subject Country) | Rs/Pcs | US\$/000'Pcs |
| Non-Injurious Price (NIP) | *** | *** |
| Landed Price of imports | 3.27 | 67.96 |
| Injury Margin | *** | *** |
| Injury Margin % | *** | *** |
| Injury Margin % (Range) | 125-135 | 125-135 |

Economic Parameters Relating to the Domestic Industry

45. Annexure II to the AD Rules requires that a determination of injury shall involve an objective examination of the consequent impact of these imports on domestic producers of such products. With regard to consequent impact of these imports on domestic producers of such products, the Rules further provide that the examination of the impact of the dumped imports on the domestic industry should include an objective and unbiased evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments. An examination of performance of the domestic industry reveals that the domestic industry has suffered material injury. However, the present investigations being a midterm review investigations, injury to the domestic industry is required to be assessed on mutates mutandis basis. Further, the Authority has examined whether existing measure is sufficient to counteract the dumping which is causing injury. The various injury parameters relating to the domestic industry are discussed below.

Imports from Subject countries, Market share of imports and Demand:

46. The effects of the dumped imports on the domestic sales and the market shares of the domestic industry have been examined as below:

| Particulars | Unit | 2008-09 | 2009-10 | 2010-11 | POI |
|---------------------------------|---------|---------|---------|---------|-------|
| Sales of Domestic Industry | Lac.Pcs | 3,604 | 5,926 | 5,621 | 5,576 |
| Sales of Other Indian Producers | Lac.Pcs | 0 | 0 | 422 | 836 |
| Vietnam - Subject Country | Lac.Pcs | 576 | 521 | 223 | 276 |

| | | | | | |
|-------------------------------------|---------|-------|-------|-------|-------|
| Countries already attracting duties | Lac.Pcs | 469 | 350 | 135 | 18 |
| Other Countries | Lac.Pcs | 107 | 122 | 175 | 280 |
| Total Demand | Lac.Pcs | 4,755 | 6,919 | 6,575 | 6,986 |
| Market Share in Demand | | | | | |
| Sales of Domestic Industry | % | 75.79 | 85.64 | 85.49 | 79.81 |
| Sales of Other Indian Producers | % | - | - | 6.41 | 11.97 |
| Vietnam - Subject Country | % | 12.11 | 7.53 | 3.39 | 3.95 |
| Countries already attracting duties | % | 9.86 | 5.06 | 2.05 | 0.25 |
| Other Countries | % | 2.24 | 1.76 | 2.66 | 4.01 |

It is noted that that the market share of the domestic industry increased till 2010-11 and thereafter declined marginally during period of investigation whereas the market share of the subject country declined till 2010-11 but increased thereafter during period of investigation.

Production, Capacity and Capacity Utilization and Sales

47. Information on capacity, production, capacity utilization and sales volumes of the domestic industry has been as under:-

| Period | UOM | 2008-09 | 2009-10 | 2010-11 | POI |
|----------------------|---------|---------|---------|---------|--------|
| Capacity | Lac.Pcs | 16,087 | 19,631 | 19,474 | 19,222 |
| Production | Lac.Pcs | 12,171 | 15,293 | 15,222 | 14,035 |
| Capacity utilisation | % | 75.66 | 77.89 | 78.17 | 73.02 |
| Domestic sales | Lac.Pcs | 3,604 | 5,926 | 5,621 | 5,576 |

48. It is noted that the production, domestic sales and capacity utilization of the domestic industry improved upto 2010-11 and then declined in the POI.

Profits, return on investment and cash flow

49. Profits, return on investment and cash flow of the domestic industry has been examined as under:

| Particular | Units | 2008-09 | 2009-10 | 2010-11 | POI |
|----------------------|---------|---------|---------|---------|-----|
| Profit/loss per unit | Rs./Pcs | *** | *** | *** | *** |
| <i>Trend</i> | Indexed | -100 | -41 | -60 | -51 |

| | | | | | |
|-------------------------------|---------|------|-----|-----|-----|
| Profit/loss on domestic sales | Rs.Lacs | *** | *** | *** | *** |
| <i>Trend</i> | Indexed | -100 | -67 | -94 | -80 |
| Profit before interest | Rs.Lacs | *** | *** | *** | *** |
| <i>Trend</i> | Indexed | -100 | -34 | -82 | -55 |
| Cash Profit | Rs.Lacs | *** | *** | *** | *** |
| <i>Trend</i> | Indexed | -100 | 585 | 351 | 415 |
| Capital Employed | Rs.Lacs | *** | *** | *** | *** |
| <i>Trend</i> | Indexed | 100 | 144 | 103 | 83 |
| Return on Investment | % | *** | *** | *** | *** |
| <i>Trend</i> | Indexed | -100 | -24 | -79 | -66 |

50. It is noted that the domestic industry has suffered continued financial losses throughout the injury period, extent of which declined in 2009-10 and increased once again thereafter. During POI, the domestic Industry has suffered significant losses. It is thus noted that the imposition of anti dumping duty should have resulted in improvement in performance of the domestic industry with regard to operating performance. However, the recovery remained short lived and the domestic industry's operating performance continues to be dismal.
51. It is further noted that return on investment has followed the same trend as that of profits. The domestic industry had negative return on investment throughout the injury period. In particular, the performance of the domestic industry with regard to return on investment improved very marginally in 2009-10 and declined thereafter. However, all along during the injury period, the domestic industry was in losses.
52. It is noted that whereas the domestic industry had negative cash profits in 2008-09, the cash profits were positive in 2009-10 and thereafter. It is further noted that even though the performance of the domestic industry improved over the period, yet the same was adverse and deteriorated with the intensified dumping of the product.

Employment and wages

53. Status of employment levels and wages of the domestic industry has been as under:

| Particular | Units | 2008-09 | 2009-10 | 2010-11 | POI |
|------------------|----------|---------|---------|---------|-------|
| Employment - PUC | Nos. | 1,410 | 1,703 | 1,788 | 1,645 |
| <i>Trend</i> | % | 100 | 121 | 127 | 117 |
| Wages | Rs. Lacs | 6,930 | 8,235 | 8,074 | 7,617 |
| <i>Trend</i> | % | 100 | 119 | 117 | 110 |

54. The Authority notes that employment level with the domestic industry increased till 2010-11 and then declined in POI. Wages paid has shown increase in 2009-10 and decline thereafter.

Productivity

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

| Productivity | Units | 2008-09 | 2009-10 | 2010-11 | POI |
|--------------|---------|---------|---------|---------|-------|
| Per Employee | Lac Pcs | *** | *** | *** | *** |
| <i>Trend</i> | % | 100 | 104 | 99 | 99 |
| Per Day | Lac Pcs | 34.78 | 43.69 | 43.49 | 40.10 |
| <i>Trend</i> | % | 100 | 126 | 125 | 115 |

56. The Authority notes that productivity per employee of the domestic industry improved in 2009-10 and declined thereafter in 2010-11 before registering a marginal increase during the POI.

Inventories

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

| Particular | UOM | 2008-09 | 2009-10 | 2010-11 | POI |
|-------------------|---------|---------|---------|---------|-------|
| Average Inventory | Lac Pcs | 2,408 | 3,031 | 3,579 | 2,845 |
| <i>Trend</i> | % | 100 | 126 | 149 | 118 |

58. It is noted that the inventory levels of the domestic industry increased till 2010-11 and then declined in POI. However inventory levels in POI increased as compared to the base year which was also the period of investigation in the original period.

Factors affecting domestic prices

59. Consideration of the import prices from Vietnam, change in the cost structure, competition in the domestic market, factors other than dumped imports that might be

affecting the prices of the domestic industry in the domestic market show that the landed value of imported material is significantly below the selling price and non injurious price of the domestic industry, causing significant price undercutting and underselling in the Indian market. Thus, most important factor affecting the domestic prices is the landed price of subject goods from subject country.

Ability to raise capital

60. It is noted that should the dumping from the present sources persist, ability of the domestic industry to raise capital would suffer.

Growth

61. On examination of various economic parameters of the domestic industry, the Authority notes that both the volume and price parameters such as production, sales, profits, return on investment, cash profits, etc. of the domestic industry show improvement up to 2009-10 and then it shows decline despite anti dumping duty in force. Thus, the growth of the domestic industry is adverse on the volume parameters. On the price parameters, the growth is positive till 2009-10 and thereafter the growth is negative.

| Growth Compared to Previous Year | Units | 2008-09 | 2009-10 | 2010-11 | POI |
|----------------------------------|-------|---------|---------|---------|--------|
| Production | % | | 25.65 | -0.47 | -7.79 |
| Domestic Sales Volume | % | | 64.44 | -5.14 | -0.81 |
| Average stock | % | | 25.85 | 18.09 | -20.52 |
| ROCE | % | | 5.47 | -3.98 | 0.94 |

Causal Link

62. As per the AD Rules, the Designated Authority is, inter alia, required to examine any known factors other than dumped imports which at the same time are injuring the domestic industry, so that the injury caused by these other factors must not be attributed to the dumped imports. Factors which may be relevant in this respect include, inter alia, the volume and prices of imports not sold at dumping prices, contraction in demand or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and the productivity of the domestic industry. It was examined whether these other parameters listed under the Rules could have contributed to injury to the domestic industry.

Imports from other countries and other Known Factors

63. Imports of subject goods from other sources are either attracting anti dumping duty, or are at higher prices,

Contraction in demand and / or change in pattern of consumption

64. The data shows demand of the product under consideration has increased over the injury period. Decline in demand cannot be considered as the factor that could have impacted the performance of the domestic industry.

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

65. The subject goods are freely importable. No trade restrictive practices in the domestic market have been brought to the knowledge of the Authority. The domestic producers compete with each other and at the same time with the subject goods. The price of the domestic industry is influenced by the landed price of subject goods.

Development of technology

66. It is noted that the subject goods continues to have niche market and there is no evidence of material developments in technology which could have been a factor of injury to the domestic industry.

Exports by the domestic industry

67. The exports performance of the domestic industry has been segregated and information for domestic sales alone has been adopted for assessment of profits, return on investment and cash flows. Therefore, exports performance could not have affected its information adopted with regard to these parameters. The Authority also notes that the analysis of financial performance for the injury period has been done for the domestic sales only

Productivity

68. It is noted that productivity improved till 2009-10 but declined thereafter. However, the decline in productivity is not so significant as to have had significant adverse price effect on profits and return on investment.

Parameters establishing causal link and conclusions with regard to continuance or recurrence of injury to the domestic industry if the said anti-dumping duty is removed or varied

69. The Authority notes that while listed known other factors do not show that injury to the domestic industry has been caused by these factors, following parameters show that injury to the domestic industry has been caused by dumped imports of subject goods from subject country:

- a. Landed price of imports were undercutting the prices of the domestic industry. Resultantly, the domestic industry has been prevented from increasing its prices in proportion to increase in costs.

- b. As a result of the price undercutting, profitability of the domestic industry continues to be adverse. In fact, the same was expected to improve with the imposition of anti dumping duty. Resultantly, return on investment and cash flow of the domestic industry, which improved earlier, deteriorated once again.
 - c. The landed prices of imports from subject country were lower than the Non injurious price resulting in price underselling. The operating performance of the domestic industry continues to be adverse as a result of continued price underselling.
 - d. The capacity utilization of the domestic industry has marginally declined and continues to be suboptimal.
70. It is noted that since dumping margin as well as injury margin in this midterm review continues to be positive and significant, it is considered appropriate not to analyse further the recurrence of injury to the domestic industry if the said anti-dumping duty is removed or varied
71. From the above analysis, it is concluded that injury to the domestic industry is likely to continue and intensify, if the anti dumping duty imposed on subject goods from Vietnam is removed.

Injury Margin

72. The Non-injurious Price for the subject goods has been compared with the landed value of the exports of subject goods from the subject country for determination of injury margin. The injury margin has been worked out as under: The injury margin as worked out is considered significant.

| Vietnam (Subject Country) | Rs/Pcs | US\$/000'Pcs |
|---------------------------|---------|--------------|
| Non-Injurious Price (NIP) | *** | *** |
| Landed Price of imports | 3.27 | 67.96 |
| Injury Margin | *** | *** |
| Injury Margin % | *** | *** |
| Injury Margin % (Range) | 125-135 | 125-135 |

Indian industry's interest & other issues

73. The Authority recognizes that imposition of anti-dumping duties might affect the price level of product in India. However, fair competition in the Indian market will not be reduced by the anti-dumping measures. On the contrary, imposition of anti-dumping measures would remove the unfair advantage gained by dumping practices, would arrest the decline of the domestic industry and help maintain availability of wider choice to the consumers of subject goods.
74. 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.

FINAL FINDINGS:

75. Having regard to the contentions raised, information provided and submissions made by the interested parties and facts available before the Authority through the submission of interested parties or otherwise as recorded in the above findings and on the basis of the above analysis, the Authority concludes that:
- i. The subject goods are entering the Indian market at dumped prices and dumping margins of the subject goods imported from Vietnam is significant and above de-minimis. The subject goods continue to be exported to India at dumped prices in spite of existing anti dumping duties.
 - ii. The domestic industry continues to suffer material injury on account of dumped imports of subject goods from Vietnam in spite of existing anti dumping duties. Further, should the present anti dumping duties not be enhanced, injury to the domestic industry is likely to intensify.
 - iii. The existing measure is not sufficient to counteract the dumping which is causing injury.
76. Having concluded that the product continues to be exported at dumped prices and the situation of the domestic industry continues to be fragile and the current quantum of anti dumping duty on dumped imports from Vietnam is insufficient, the Authority is of the opinion that the measure is required to be enhanced in respect of imports from the subject country. Therefore, the Authority considers it necessary and recommends enhancement in the quantum of anti dumping duty on imports of subject goods from Vietnam at the rates specified in the table below,
77. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of 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. For the purpose of determining extent of injury margin, the landed value of imports has been compared with the non-injurious price of the domestic industry determined for the period of

investigation. Accordingly, the antidumping duty equal to the amount mentioned in Col 8 of the table below is recommended to be imposed on all imports of subject goods originating in or exported from Vietnam.

| S N | Tariff headin g | Descriptio n of goods | Country of origin | Country of export | Produce r | Export er | Amoun t | Unit | Currenc y |
|---------|-----------------------|-------------------------------------------------|---------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------|--------------|--------------|------------|---------------------------|--------------|
| (1) | (2) | (3) | (4) | (5) | (6) | (7) | (8) | (9) | (10) |
| 1 | 8523 | *Digital Versatile Disc Recordabl e | Vietnam | Vietnam | Any | Any | 73.01 | Per 1000 piece s | US Dollar |
| 2 | 8523 | - Do - | Vietnam | Any country other than countrie s attractin g anti dumpin g duty | Any | Any | 73.01 | Per 1000 piece s | US Dollar |
| 3 | 8523 | - Do - | Any country other than countries attracting antidumpin g duty | Vietnam | Any | Any | 73.01 | Per 1000 piece s | US Dollar |

* “Digital Versatile Disc [DVD] Recordable of all kinds”. Such product includes DVD-R, DVD+R, DVD-RW, DVD+RW

78. Landed value of imports for the purpose shall be the assessable value as determined by the Customs under the Customs Act, 1962 and all duties of customs except duties under sections 3, 3A, 8B, 9 and 9A of the Customs Tariff Act, 1975.
79. An appeal against this order shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act.

(J. S. Deepak)
Designated Authority