

To be published in the Part 1 Section 1 of Gazette of India, Extraordinary

**File No.15/01/2015-DGAD
GOVERNMENT OF INDIA
MINISTRY OF COMMERCE & INDUSTRY
DEPARTMENT OF COMMERCE
DIRECTORATE GENERAL OF ANTI-DUMPING & ALLIED DUTIES**

4th Floor Jeevan Tara Building,
5, Parliament Street, New Delhi-110001

NOTIFICATION

FINAL FINDING

Dated the 15th March, 2016

Subject: Sunset Review (SSR) anti-dumping investigation concerning imports of 'Digital Versatile Discs-Recordable of all kinds (DVD-R)' originating in or exported from Vietnam and Thailand.

File No.15/01/2015-DGAD: Having regard to Customs Tariff Act, 1975 (hereinafter referred to as the Act) read with Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, (hereinafter referred as the Rules).

A. Background of the Case

1. Whereas the Designated Authority, in the Ministry of Commerce and Industry, Department of Commerce, Govt. of India, (hereinafter referred to as "the Authority"), *vide* Notification No. 14/16/2009-DGAD dated May/05/2009, initiated an anti-dumping investigation concerning import of 'Digital Versatile Discs-Recordable of all kinds (DVD-R and RW), originating in or exported from Malaysia, Thailand and Vietnam. The Preliminary Findings were issued by the Authority, *vide* Notification No. 14/16/2009-DGAD dated Nov/13/2009 and the provisional anti-dumping duties were imposed by the Central Government, *vide* Notification No. 48/2010-Customs dated Apr/12/2010. The Final Findings were issued by the Authority, *vide* notification No. 14/16/2009-DGAD dated Jul/02/2010, recommending imposition of definitive duty.
2. On the basis of the recommendations made by the Authority in the final findings, definitive anti-dumping duties were imposed by the Central Government, *vide* Notification No.98/2010-Customs dated Sep/28/2010 on the imports of the above goods, originating in or exported from Malaysia, Thailand and Vietnam. The

definitive duties were valid for a period of 5 years from the date of provisional duty i.e. till 11th April, 2015. Subsequently, on the request of the domestic industry the Authority initiated a Mid-term review investigation against imports of subject goods originating in or exported from Vietnam on Aug/16/2012 vide Notification No. 15/5/2012-DGAD and on the basis of the Final Finding of the Authority issued on Oct/15/2013, the duties were enhanced against the above goods originating in or exported from Vietnam, vide Customs Notification No. 34/2013-Customs (ADD) dated Dec/31/2013.

3. M/s Moser Baer India Limited, the major domestic manufacturer of the subject goods, filed a duly substantiated application before the Authority on behalf of the domestic industry, in accordance with the Act and the Rules, alleging likelihood of continuation or recurrence of dumping of the above goods, originating in or exported from Malaysia, Thailand and Vietnam and consequent injury to the domestic industry in the event of cessation of duty and requested for a review of the same for continuation and enhancement of the anti-dumping duties, imposed on the imports of Digital Versatile Discs-Recordable (DVD-R) only, originating in or exported from the above countries.
4. The domestic industry, in its petition for initiation of the sunset review, submitted that imports of DVD-RWs, which was also subjected to antidumping duties, were at significantly high prices and therefore, not affecting the domestic industry. It was also submitted that since DVD-RW production of the petitioner is extremely low compared to the production and sale of DVD-Rs, import of DVD-RWs no longer posed any threat to them in terms of dumping and injury. The Authority notes that in the sunset review investigation concerning China PR, Hong Kong and Chinese Taipei, after detailed examination the Authority excluded DVD-RW from the scope of imposition/extension of duty as this product was not found to be injuring the domestic industry and there was no likelihood of imminent recurrence of injury on account of this product. Considering the above facts the Authority, in the initiation notification, excluded DVD-RWs from the scope of the current investigation also.
5. The duties were in force against Malaysia, Vietnam and Thailand. However, there was no import of the subject goods from Malaysia during last three years. The petitioner did not provide any credible *prima facie* evidence to establish likelihood of recurrence of dumping form Malaysia. Therefore, the Authority decided to restrict the review in respect of duty on Thailand and Vietnam only and Malaysia was dropped from the purview of the sunset review investigation.
6. Accordingly, on the basis of the duly substantiated application filed on behalf of the domestic industry and in accordance with section 9A(5) of the Act, read with Rule 23 of the Anti-dumping Rules, the Authority initiated a sunset review

investigation, vide Notification No. 15/01/2015-DGAD dated Mar/27/2015 to review the need for continued imposition of the duties in respect of 'Digital Versatile Discs-Recordable (DVD-R) only (herein after referred to as the subject goods), originating in or exported from Thailand and Vietnam (hereinafter referred to as the subject countries), and to examine whether the expiry of such duty is likely to lead to continuation or recurrence of dumping and consequent injury to the domestic industry.

7. The validity of the anti-dumping duty on the imports of the subject goods from the subject countries was extended by the Central Government up to and inclusive of 11th day of April, 2016, vide Notification No.12/2015-Customs (ADD) dated 11.04.2015.
8. The scope of the present review covers all aspects of the original investigation concerning imports of the subject goods, originating in or exported from the subject countries only.

B. Procedure

9. The procedure described below has been followed with regard to the subject investigation:
 - i. The Embassies of the subject countries in New Delhi were informed about the initiation of the investigation in accordance with Rule 6(2) and copies of the initiation notification and non-confidential petition were also made available to the embassies concerned with a request to make them available to all producers and exporters of the subject goods in their respective countries.
 - ii. The Authority forwarded copies of the public notice and copies of the non-confidential version of the petition to the following known producers/exporters in the subject countries and provided them opportunity to make their views known in writing within forty days thereof in accordance with the Rules 6(2) & 6(4):
 - a. M/s Jet-Thai Hi-Tech Co. Ltd. Thailand
 - b. M/s Ritek Vietnam Co. Ltd., Vietnam
 - iii. No response or submission has been filed by any of the producers/exporters from the subject countries. No submission has also been received from the Governments of the subject countries.
 - iv. The Authority forwarded a copy of the public notice and non-confidential petitions to the following known importers of subject goods in India (whose names and addresses were made available to the authority) and advised them to make their views known in writing within forty days from the date of issue of the letter in accordance with the Rule 6(4):

- a. Rashi Peripherals Pvt. Ltd.
 - b. Dynamic Overseas
 - c. Jas International
 - d. Hanix Overseas
 - e. Aditya Enterprises
 - f. Veeline Media Ltd.
 - g. Himalayan Times Pvt. Ltd.
 - h. Allied Electronics and Magnetics Ltd.
 - i. Rana Peripherals Pvt. Ltd.
- v. No response or submission by way of response to the questionnaire has been submitted by any of the importers/users/other interested parties.
 - vi. A copy of the initiation notification was also sent to the following other known domestic producers of the subject goods, namely, (i) Euro Multivision Ltd, (ii) Jupiter International Limited. No response has been received from these parties either.
 - vii. Exporters, producers, importers and other interested parties who have neither responded to the Authority nor supplied information relevant to this investigation have been treated as non-cooperating interested parties by the Authority.
 - viii. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of import data of the subject goods for the injury period (2010-March 2011, April 2011-March 2012, April 2012-March 2013), including the POI (April 2013- March 2014).
 - ix. The Authority made available non-confidential version of the evidence presented by interested parties in the form of a public file kept open for inspection by the interested parties as per Rule 6(7).
 - x. The Authority has examined the information furnished by the domestic producer to work out the cost of production and determined the non-injurious price of the subject goods in India, as per its consistent practices, so as to ascertain if anti-dumping duty, lower than the dumping margin, would be sufficient to remove injury, if any, to the domestic industry.
 - xi. In accordance with Rule 6(6) of the AD Rules, the Authority also provided opportunity to all interested parties to present their views orally in a public hearing held on Feb/01/2016, which was attended only by the domestic industry and their representatives. The domestic industry was requested to file

written submissions of their views expressed orally. The submissions made by the domestic industry during the course of the investigation and considered relevant by the Authority, have been taken on record addressed to the extent they are relevant and backed by evidence.

- xii. Verification of the information and data submitted by the participating domestic producer was carried out to the extent deemed necessary.
- xiii. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.
- xiv. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has used 'best information available' and has treated such parties as non-cooperative.
- xv. In this finding '****' represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
- xvi. The Period of Investigation (POI) for the purpose of the present review is 1st April, 2013 to 31st September, 2014. The examination of trends in the context of injury analysis covers the periods April 2010-March 2011, April 2011-March 2012, April 2012-March 2013 and the POI.
- xvii. The exchange rate for the POI has been taken by the Authority as Rs.60.81 = 1 US\$.

C. Scope of Product under consideration and like article

- 10. As noted in para-6 above the scope of the product under consideration for the current sunset review shall cover only all kinds of "Recordable Digital Versatile DVD-R, DVD+R, and mini DVD-R" (Hereinafter referred to as product under consideration or subject goods).
- 11. None of the producers/exporters/importers/other interested parties has made any submission in this regard. Therefore, the Authority confirms the scope of the product under consideration as above.

D. Domestic Industry and Standing

- 12. The petitioner has submitted that there are four other known producers of the product under consideration in the country – namely, Euro Multivision Limited,

Jupiter International Limited and Next Star Digital. However, the petitioner, i.e. M/s Moser Baer India Ltd., commands more than 87% share in Indian production of the subject goods during the POI and therefore, constitute domestic industry and satisfy the standing requirement for the purpose of this investigation. None of the exporters/importers/other interested parties has made any submissions in this regard or contested the claims of the domestic industry. Since there is no opposition from any interested party in the present investigation regarding the standing of the domestic industry and the production of the applicant producer constitutes major portion of the total production of the subject goods, the Authority has considered that the petitioner has the standing to file the application for sunset review and constitutes domestic industry within the meaning of the term as per the AD Rules.

E. Other submissions of the interested parties

13. The authority notes that no other interested party, except the petitioning domestic industry, has made any submission in response to the initiation of this sunset review. The submissions made by the domestic industry with regard to their claims of dumping, injury and causal links have been examined in the respective sections in this disclosure statement.

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

F.1 Legal Positions

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

“The anti dumping duty imposed under this Section shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition:

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

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

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

- Whether the dumping continues after imposition of the antidumping duty and if so, whether it is likely to continue;

- In cases where dumping did not continue, whether the dumping would recur in the event of revocation of anti dumping duties;
- Whether the domestic industry continued to suffer injury and if so, whether injury to the domestic industry is likely to continue;
- In cases where the domestic industry has not suffered continued injury, whether injury to the domestic industry is likely to recur in the event of revocation of anti dumping duties.

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

F.2 Examination of Continuation of Dumping, if any: Methodology of determination of Normal Value, Export Price and Dumping Margin

F.2.1 Views of the Domestic Industry

17. The petitioner domestic industry, in its petition, submitted that they made efforts to get evidence of price of product concerned in the domestic market of Thailand and Vietnam. Efforts were also made to get evidence of price from published sources. However, they could not get any evidence of price in the domestic market of Thailand and Vietnam. In view of this, the petitioner constructed the normal values for all exporters/producers from Thailand and Vietnam based on their cost data on a conservative basis. The prices and consumption norms of the major raw material, i.e., polycarbonate have been adopted on the basis of domestic industry's cost since the import prices reported by DGCI&S during the period were high.

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

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

F.2.3 Determination of Normal Value in Thailand and Vietnam

19. The sunset review was initiated on the basis of the above prima facie evidence of dumping as no direct and reliable evidence of prices of the subject goods in the subject countries was available to enable a fair comparison at that stage. However, The Authority provided adequate opportunity to the interested parties to provide appropriate information for determination of the normal values and export prices from the subject countries for a fair determination of current dumping as well as likelihood of continuation or recurrence of dumping as the case may be. Since none of the producers and exporters in Thailand and Vietnam has provided any information or evidence with regard to the Normal Value of the subject goods in those countries, the Authority is constrained to

determine the normal value in these countries based on best facts available, including the information contained in the petition of the domestic industry in terms of para-1 of Annex II to the Agreement on Antidumping.

20. Accordingly, Authority has constructed the normal value in Thailand and Vietnam on the basis of the cost of production of the petitioner domestic producer in India after making due adjustments for the international prices of major raw materials, and power cost as prevailing in the country, as the best information, with due provision for a reasonable profit. Accordingly, Normal Value of the subject good in Vietnam and Thailand have been determined as follows:

	Vietnam	Thailand
Particulars	Rs./pcs	Rs./pcs
Raw cost as per domestic price including packing material cost	***	***
Utilities	***	***
Conversion cost/SGA including interest	***	***
Profit	***	***
CNV (Rs./pcs)	***	***
CNV USD/ '000 pcs	***	***
Exchange Rate USD 1 =	60.81	60.81

F.4 Export Prices

21. As none of the exporters of the subject countries has provided any information that can be used for determination of the export price, the Authority has determined the export prices for all exporters from subject countries on the basis of CIF price of imports to India as per the transaction-wise import data obtained from the Directorate General of Commercial Intelligence and Statistics with applicable adjustments for Ocean freight, Marine insurance, Port expenses, Commission, Inland transportation in the country of export, clearing charges and Bank Charges as per best information available to arrive at the export prices at the ex-works level. Accordingly, export price from these countries work out as follows:

Particulars	Unit	Thailand	Vietnam
Volume of Imports	Lac Pcs	52.50	22.01
CIF Value of Imports	Rs.Lacs	226.31	97.99
CIF Price	Rs./Pc	4.31	4.45
Ocean Freight	Rs./Pc	0.06	0.07
Marine Insurance	Rs./Pc	0.01	0.01
FOB Export Price	Rs./Pc	4.24	4.38
Port Expenses @ 0.50 %	Rs./Pc	0.02	0.02
Inland Freight @ 0.50 %	Rs./Pc	0.02	0.02

Handling charges @ 1%	Rs./Pc	0.04	0.04
Clearing charges @ 1%	Rs./Pc	0.04	0.04
Bank charges	Rs./Pc	0.04	0.04
Net Export Price	Rs./Pc	4.07	4.20
Exchange rate- US\$	INR	60.80	60.80
Net Export Price	US\$/000Pcs	66.96	69.16

F.5 Dumping Margins

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

Particulars	Unit	Thailand	Vietnam
Normal Value	US\$/000'Pcs	***	***
Net Export Price	US\$/000'Pcs	66.96	69.16
Dumping Margin	US\$/000'Pcs	***	***
Dumping Margin	%	***	***
Dumping Margin	% Range	70-80%	60-70%

23. The above assessment indicates that DVD-Rs continue to enter the Indian market, from Thailand and Vietnam, at dumped prices and the dumping margins are significantly high though the volume of imports are low during the POI. Therefore, the Authority has assessed the likelihood for continuation or recurrence of dumping of the subject goods as follows:

G. Likelihood of Continuation or Recurrence of Dumping

G.1 Views of the Domestic Industry

24. The petitioner domestic industry has submitted that there is a history of dumping of the subject goods from various countries, apart from the countries under investigation in this review, and the Authority has carried out several investigations against this product in the past resulting in imposition of antidumping duties as per the table given below:

S No.	Investigation	POI	Country	Dumping Margin %	ADD (USD/1000 pcs.)
1	1 st	April 2006 to June	China PR	64.72	68.11-48.11

	Investigation	2007			
			Hong Kong	62.96	66.72
			Chinese Taipei	63.50	45.63
2	2 nd Investigation	April 2008 to March 2009	Malaysia	34.05	35.92
			Thailand	22.51	25.98
			Vietnam	64.09	29.75-50.51
3	MTR of the 2 nd investigation	April 2011 to March 2012	Vietnam	105-115%	73.01
4	SSR of 1 st Investigation	April 2012- March 2013	China PR	100-120%	36.67
			Hong Kong	-	36.67
			Chinese Taipei	25-35%	22.39

25. Domestic industry argues that all the investigations in the past concluded on DVDs have shown significant dumping of these products showing the fact of dumping by global producers. In the event of cessation of anti-dumping duty, these exporters will get a greater opportunity to dump the product under consideration into India, taking away the market share of the domestic industry.
26. It has been further argued by the domestic industry that Ritek is one of the known major producer and exporters of the product under consideration having production facilities in Taiwan, China and Vietnam. After imposition of anti dumping duty and with a view to circumvent anti dumping duty on imports from Taiwan, Ritek set up some manufacturing facilities in Vietnam and started dumping from Vietnam. Ritek did not cooperate with the Designated Authority in the first investigation in respect of imports from Taiwan. However, when the Designated Authority subsequently initiated investigations in respect of Vietnam, Ritek responded and participated fully in the investigations and significantly low quantum of anti dumping duty was imposed on Ritek in respect of imports from Vietnam. The company intensified dumping from Vietnam and continued to export from Vietnam. Imports from Taiwan and China remained very low in volumes during this period. The domestic industry filed petition for review in respect of imports from Vietnam in view of intensified dumping. The company did not respond to the midterm review. The Designated Authority, after conducting detailed investigation, recommended imposition of enhanced duty on imports from Vietnam at the rate of US\$73.01/1000 Pcs, which was subsequently imposed by Ministry of Finance.

27. When the sunset review was initiated against imports of the subject goods from Taiwan in November 2014 M/s. Ritek, who has plants both in Vietnam and Taiwan, did not participate in the said investigation. Given that Vietnam entity is a wholly own subsidiary of Taiwan entity, significant issues were raised by petitioner with regard to valuation of raw materials, interest costs and other costs. It was contended by the petitioner that the major raw materials for the Vietnam plant were being procured by M/s Ritek Taiwan. Further, it was argued that significant overhead costs were not being booked in the books of Vietnam and these were being recorded in Taiwan books.

28. The Authority concluded the sunset review investigation and the duty against the imports from Taiwan was significantly reduced to US\$22.39/1000 Pcs from US\$65.63/1000 Pcs. This has resulted in significant shift in exports from Vietnam to Taiwan as can be seen from the Post POI data of this investigation as given below:

Imports from	Unit	2010-11	2011-12	2012-13	POI	Annualized POI	Post POI
Vietnam	Lac.Pcs	204.93	258.39	121.50	22.01	14.67	-
Taiwan	Lac.Pcs	1.49	-	0.10	10.50	7.00	54.93

29. The domestic industry has argued that under these circumstances, in case the present anti dumping duty is removed from Vietnam, the company will shift back dumping from Vietnam, as duties are in force against Taiwan. Further, it has been argued that the price at which the company was exporting the goods from Vietnam during the present POI is clearly suggestive of the price at which the company would dump from Vietnam in case of cessation of anti dumping duty.

30. It has been further argued that producers of subject goods in subject countries maintain huge capacities. Quoting certain news reports the Domestic industry has submitted that Ritek maintains a capacity of about 20 Million Pcs per month in Vietnam alone. Quoting the information available in the website of Thai Trade Centre, a Govt. of Thailand (DITP) website, the domestic industry has submitted that the major Disc producer in Thailand i.e., Dyntech Disc production Co. Ltd has a DVD manufacturing capacity of 0.8 Million per month. Jet Thai Hi-Tech Co. Ltd., another producer in Thailand and other countries, appears to have expanded its production base to Thailand as per its website report. It has been argued that given the global decline in demand for the product significant spare capacities are available in these countries to enable them to dump in significant quantities if the duties are revoked.

31. The petitioner domestic industry has further submitted that if the trend of imports of product under consideration is analyzed, it will clearly show that there has been a consistent practice of dumping by different countries in the past. If the anti-dumping duty is imposed on one set of countries, the dumping starts from another set of countries. This shift in imports clearly shows that the importers are deliberately and consciously resorting to dumping and therefore, dumping will recur if duties are revoked.

G.2 Views of other interested Parties

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

G.3 Examination by the Authority

33. The Authority notes that continuation of dumping has been established in case of import of DVD-R from Thailand and Vietnam as recorded in the previous section though the volume of imports from these countries has dropped significantly during the investigation period largely because of the antidumping duty imposed on several countries, including the subject countries. The antidumping duties have been extended on this product, originating in or exported from China PR, Hong Kong and Chinese Taipei, on the basis of finding of likelihood of continuation or recurrence of dumping of the subject goods from these countries and the duties are in force till 2019. However, a significant shift in imports from Vietnam to Taiwan has been noted in the post POI period which coincides with the reduction of duty on Taiwan in the sunset review against that country.

34. The Authority further notes that the demand for the product has seen a significant decline in the global market making some of the capacities in various countries surplus/idle. The domestic industry has provided certain information regarding available capacities in the subject countries, as recorded above, to establish that given the availability of spare capacities in these countries and decline in global demand there is a strong likelihood that the goods will be exported to India in dumped prices in bigger volumes.

35. No other interested party has placed any material fact before the Authority in this regard. Considering the fact that the dumping margins from the subject countries are still high though the volumes have declined and there is a clear indication of shift in volumes from countries as indicated above and keeping further in view that there is a significant demand supply mismatch in the global market for this product the Authority is of the view that there is a clear and imminent likelihood of increase in volume of dumped imports from the subject countries if the duties are revoked.

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

H.1 Legal Position

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

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

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

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

H.2.1 Submissions by the domestic industry

38. The domestic industry has *inter alia* made the following submissions with regard to the injury and causal link:

- i. Current volume of imports from subject countries is low due to anti-dumping duty. If the present anti dumping duty is allowed to cease, flood gates will open up for these countries and the domestic industry would once again suffer significant injury. This gets clearly established by (a) the shifting pattern of imports from Vietnam prior to review and revision of anti dumping duty, (b) significant dumping in the product, (c) significant price undercutting in respect of the product, (d) significant capacities with the subject producers, (e) significant current exports from the subject countries, etc.
- ii. That there is continued dumping of the product under consideration from Thailand and Vietnam, though the volume of dumped imports has declined as a result of current anti-dumping duties. Dumping of the product under consideration is likely to intensify from these countries should the current anti-dumping duty be revoked.

- iii. Domestic industry is suffering injury both from dumping from present sources as also some decline in demand. While it is appreciated that the decline in demand has been partly responsible for the decline in production and sales, the presence of dumped from these countries has aggravated injury to the domestic industry. Further and more importantly, the price at which the domestic industry is forced to sell the product under consideration in the market is clearly because of dumping of the product under consideration in the Country
- iv. Price undercutting is significantly positive in respect of DVD-R without anti-dumping duty. This indicates that the imports are undercutting the prices of the domestic industry and in the event of revocation of existing duties, the subject imports from the subject countries will undercut domestic prices to a significant degree
- v. Given the price difference between the imported and domestic price, the cessation of anti-dumping duty would lead to significant depressing effect on the prices of the domestic industry in the market
- vi. The domestic industry has reduced the capacity in view of tapering of global demand for the product and to retain its competitiveness. The production of the domestic industry has declined over the period. Domestic industry has been regulating production considering the demand for the product in the domestic and global market. The domestic sales of the domestic industry showed the same trend as that of production and have declined since base year.
- vii. The domestic industry is continually running into financial losses with respect to domestic sales. Further the domestic industry is facing continued negative return on capital employed which has deteriorated significantly in the POI.
- viii. With dumped imports likely to enter the Indian market, the domestic industry, in order to sustain in the market, would be left with no option but to sell the goods at still lower prices. Further, the domestic industry would be prevented from raising its prices in proportion to increase in costs. The domestic industry shall suffer increased financial losses.
- ix. Market share of the domestic producers as a whole has remained in similar region. In the event of revocation of the existing duty, the volume of imports from the subject countries will increase and capture the market causing further injury to the domestic industry

- x. The average inventory levels of the domestic industry have declined in period of investigation. This is due to the fact that the petitioner has regulated production in order to contain inventory levels.

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

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

H.2.3 Examination by the Authority

- 40. In the light of the various submissions made by the domestic industry the Authority has examined the current injury, if any, to the domestic industry before proceeding to examine the likelihood aspects of injury on account of dumped imports from the subject countries.
- 41. Rule 11 of Anti-dumping Rules, read with Annexure–II, provides that an injury determination shall involve examination of factors that may indicate injury to the domestic industry, “... taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles...” In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.
- 42. For the examination of the impact of the dumped imports on the domestic industry in India, the Authority has considered indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, stock, profitability, net sales realization, the magnitude and margin of dumping, etc. in accordance with Annexure II of the rules supra.
- 43. For the purpose of current injury analysis, the Authority has examined the volume and price effects of dumped imports of the subject goods on the domestic industry and its effect on the prices and profitability to examine the existence of injury and causal links between the dumping and injury, if any.
- 44. The authority notes that the subject goods are at present attracting anti dumping duty from China, Hong Kong and Taiwan in addition to the subject countries. The authority has considered the volume and price impact of imports from all these countries along with other sources for determination of injury and causal link, including the likelihood scenario, if the anti dumping duties are withdrawn in

respect of the subject countries. For the purpose of this review the injury to the domestic industry, on account of dumped imports of the subject countries, has been assessed cumulatively. Accordingly, the volume and price effect of dumped imports have been examined to assess the impact of current dumping as follows:

(a) Volume effect of dumped imports and impact on domestic industry

i. Import Volume & Share of the subject countries

45. To examine the volume and prices of dumped imports request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of import data of the subject goods for the injury investigation period. The Authority also notes that DGCI&S transaction-wise import data up to March 2014 was examined in detail and relied upon in its final findings dated 14th Oct 2014 in the sunset review investigation against China, Hong Kong and Taiwan. Therefore, for the purpose of the present investigation the same data has been relied upon for the overlapping period of the injury investigation. The present investigation covers the period upto Sept 2014. The domestic industry has also provided transaction-wise import data obtained by them from a secondary source i.e., International Trade Advisory Services (ITAS) for the POI (April 2013- Sep 2014) and has argued that this data includes certain transactions of imports at JNPT and Patparganj ICD during the period April 2014-Sept 2014 which are not reflected in the DGCI&S data. Therefore, for these additional transactions have been considered along with DGCI&S data as enumerated above for the purpose of this investigation. The data considered for this investigation have been placed in public folder. Accordingly, imports of the subject goods during the injury investigation period is as follows:

In Lac Pcs

Particulars	2010-11	2011-12	2012-13	POI	Annualized POI	Post POI
Imports –Volume						
Subject Countries	283.37	271.99	121.50	74.51	49.67	-
Thailand	78.44	13.60	-	52.50	35.00	-
Vietnam	204.93	258.39	121.50	22.01	14.67	-
Countries attracting duties	21.77	2.04	1.66	11.25	7.50	55.93
China PR	20.27	2.04	1.56	0.75	0.50	1.00
Taiwan	1.49	-	0.10	10.50	7.00	54.93
Hong Kong	-	-	-	-	-	-
Other Countries	338.03	295.85	174.08	211.03	140.68	54.00
Total Imports	643.16	569.88	297.24	296.79	197.86	109.93

46. The above data indicates that total imports have declined by about 70% compared to the base years and the current volume of imports from the subject countries have also declined over the injury investigation period and is low in the POI. During Post POI period (October 2014- March 2015) there are no imports from subject countries. However, the data indicates that imports from Taiwan have increased significantly in the post POI. The petitioner has argued that with enhancement of duty from Vietnam in the MTR and lower duty against Taiwan in the SSR, Ritek, having production facilities in both Vietnam and Taiwan, has started exporting the goods from Taiwan in increased volumes. Therefore, in the event of cessation of anti-dumping duty from Vietnam, the exports will resume from Vietnam.

47. The authority notes that anti dumping duties are in force against import of the subject goods from a number of countries and the import data above indicates that the imports from those countries also exhibit a steady decline except for Taiwan where the trend has reversed after reduction of the duties in the SSR against those countries.

ii. Demand and Market Share

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

In Lac Pcs

Particulars	2010-11	2011-12	2012-13	POI	Annualised POI	Post POI
Sales of Domestic Industry	***	***	***	***	***	***
Trend	100	99	82	72	72	46
Sales of Other Indian Producers	***	***	***	***	***	***
Trend	100	198	163	144	144	92
Subject Countries	283	272	122	75	50	0
Countries already attracting duties	22	2	2	11	8	56
Other Countries	338	296	174	211	141	54
Trend	100	88	51	42	42	32
Total Demand	6,681	6,965	5,563	7,252	4,835	1,601
Trend	100	104	83	72	72	48

49. The Authority notes that, during the period of investigation the demand for the subject goods have declined by about 28% compared to the base year. The domestic industry's sales have also declined by the same percentage during this

period whereas other domestic producers have gained and increased their sales in the domestic market by about 44% in the same period. Total imports have fallen by 70% during this period. The decline in imports are apparently largely due to antidumping duties in force against a number of countries. In fact it appears that a part of the space vacated by the imports is being occupied by other domestic producers though their sales volumes are very small compared to the volume of sales of the domestic industry.

50. After examining the general trend in demands the Authority has examined the trend in market share of various players in the domestic market.

Particulars	Unit	2010-11	2011-12	2012-13	POI	Annualized POI	Post POI
Sales of Domestic Industry	%	***	***	***	***	***	***
Trend		100	95	98	99	99	96
Sales of Other Indian Producers	%	***	***	***	***	***	***
Trend		100	190	196	198	198	193
Subject Countries	%	***	***	***	***	***	***
Trend		100	92	51	24	24	0
Thailand	%	1.17	0.20	-	0.29	0.29	-
Vietnam	%	3.07	3.71	2.18	0.31	0.31	-
Countries already attracting duties	%	0.33	0.03	0.03	0.01	0.01	1.66
China PR	%	0.30	0.03	0.03	0.01	0.01	-
Taiwan	%	0.02	-	0.00	-	-	1.66
Hong Kong	%	-	-	-	-	-	-
Other Countries	%	5.06	4.25	3.13	2.64	2.64	2.13

51. The Authority notes that while the market share of the subject countries have declined significantly, the market share of the domestic industry for DVD-R has remained almost same over the injury investigation period. The market shares vacated by the other countries and countries attracting Anti dumping duty have been occupied by the other Indian producers. The volume of import of DVD-R from the subject countries and its market share during the injury investigation period is insignificant.

52. Therefore, there is no significant volume impact of the dumped imports on the domestic industry as the cumulative imports from the subject countries are very insignificant and there is a significant decline in the domestic demand. However, the authority notes that this being a sunset review investigation the volume of import during the injury investigation period is not relevant and may not give a

true picture of the likely situation of imports and condition of the domestic industry in the event of revocation of the duty.

(b) Price effect of dumped imports and impact on domestic industry

53. The impact of the dumped imports of the subject goods from the subject countries on the prices of the domestic industry has been examined with reference to price undercutting, price underselling, price suppression and price depression. For the purpose of this analysis the cost of production, net sales realization (NSR) and the non-injurious price (NIP) of the domestic industry have been compared with landed value of dumped imports of subject goods from the subject countries.

54. In determining the net sales realization of the domestic industry, taxes, rebates, discounts and commission incurred by the domestic industry have been adjusted. The Authority has worked out the non-injurious price for the domestic industry as per annexure-III to the Rules and compared the same with the landed values of imports from the subject countries to arrive at the extent of price underselling. The non-injurious price has been evaluated for the domestic industry as per its consistent practices by appropriately considering the cost of production for the product under consideration during the POI. The position is as follows:

i. Price Undercutting

55. Since antidumping duties are in force the price undercutting effects of the dumped imports from the subject countries has been analysed by comparing the domestic selling prices with the landed values of imports from the subject countries with and without antidumping duties to see the impact, if any. The price undercutting works out as follows:

Particulars	Unit	2010-11	2011-12	2012-13	POI
Price undercutting without Anti-dumping duty					
Landed price of subject countries	Rs/Pc.	3.73	3.46	3.94	4.40
Trend		100	93	106	118
Net Selling Price	Rs/Pc.	***	***	***	***
Trend		100	112	116	111
Price Undercutting	Rs/Pc.	***	***	***	***
Trend		100	150	136	98
Price Undercutting (%)	%	***	***	***	***
Price Undercutting	% Range	30-40	40-50	35-45	25-35
Price undercutting with Anti-dumping duty					
Landed price of subject countries	Rs/Pc.	5.05	4.88	5.57	6.04
Trend		100	97	110	120
Net Selling Price	Rs/Pc.	***	***	***	***

Trend		100	112	116	111
Price Undercutting	Rs/Pc.	***	***	***	***
Trend		100	242	164	43
Price Undercutting (%)	%	***	***	***	***
Price Undercutting	% Range	5-15	20-30	10-20	0-10

56. The Authority notes that the landed value of dumped imports of DVD-R from the subject countries has been significantly below the selling prices of the petitioner domestic industry. Even duty paid landed values are significantly undercutting the prices of the domestic industry during the entire injury investigation period though the volume of imports continued to be low.

ii. Price Suppression / Depression effects of the dumped imports

57. To examine the price suppression or depression effects of the dumped imports from subject countries on the domestic prices, the trend of net sales realization of the domestic industry has been compared with the cost of sales and the landed values of imports from the subject countries, with and without antidumping duties, to examine if the prices were suppressed or depressed to any significant degree.

Particulars	Unit	2010-11	2011-12	2012-13	POI
Cost of sales - Domestic	Rs/Pcs	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>109</i>	<i>136</i>	<i>145</i>
Selling price - Domestic	Rs/Pcs	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>112</i>	<i>116</i>	<i>111</i>
Landed price without ADD	Rs/Pcs	3.73	3.46	3.94	4.40
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>93</i>	<i>106</i>	<i>118</i>
Landed price with ADD	Rs/Pcs	5.05	4.88	5.57	6.04
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>97</i>	<i>110</i>	<i>120</i>

58. The above data indicates that while the cost of sales of the domestic industry has increased significantly since 2012-13 because of lower capacity utilisation and other factors, their domestic selling prices have remained low and significantly below the cost of sales. The import prices have increased moderately during this period by about 18-20%. Since the cost increase is partially due to factors such as low capacity utilisation and depreciation etc. the increase in cost due to these factors has been isolated and the data has been examined to see whether the prices have been suppressed or depressed due to the presence of dumped imports. The selling price has been found to be below the normated cost for the POI indicating that the prices are suppressed due to various factors such as demand decline and presence of dumped imports undercutting the domestic prices.

iii. Price underselling effects of dumped imports

59. To examine the price underselling effects of the dumped imports, if any, the Non-Injurious price of the product for the domestic industry has been compared with the landed values of imports from the subject countries (with and without antidumping duties) as follows:

Particulars	Unit	Thailand	Vietnam	Thailand	Vietnam
		Without ADD		With ADD	
Non Injurious Price	US\$/000'Pcs	***	***	***	***
Landed Price	US\$/000'Pcs	71.61	73.96	97.59	103.72
Injury Margin	US\$/000'Pcs	***	***	***	***
Injury Margin	%	***	***	***	***
Injury Margin	% Range	55-65	50-60	15-25	10-20

60. The above data shows that the landed value of imports of DVD-Rs from the subject countries has been lower than the non-injurious price of DVD-R of the domestic industry during the POI even after application of antidumping duty on such imports thereby showing significant price underselling effects. The underselling margins even with application of duty are significant.

H.3 Examination of other economic parameters of the domestic industry

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

62. The various injury parameters as above relating to the domestic industry have been examined as follows:

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

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

Particulars	Unit	2010-11	2011-12	2012-13	POI	Annualized POI
Capacity	Lac Pcs	18,921	18,889	18,892	26,492	17,662
<i>Trend</i>	<i>Indexed</i>	100	100	100	93	93
Production	Lac Pcs	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	93	75	57	57
Capacity Utilization	%	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	93	75	61	61
Domestic Sales Volume	Lac Pcs	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	99	82	72	72

64. The above data indicates that the domestic industry has rationalised its capacities marginally in the POI. However, the production have fallen significantly during the POI by about 43% thereby affecting the capacity utilization, which has fallen below 50% in period of investigation from a level of above 75% in the base year. The decline in production is because of decline in domestic sales, which has fallen by about 28% from the base year and also because of decline in export sales which has fallen significantly during the injury investigation period apparently due to decline in global demand for the product.

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

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

Particulars-	Units	2010-11	2011-12	2012-13	POI Annualized
Net profits/(loss)	Rs.Lacs	(***)	(***)	(***)	(***)
<i>Trend</i>	<i>Indexed</i>	-100	-85	-205	-248
Net profits/(loss)	Rs per Pcs	(***)	(***)	(***)	(***)
<i>Trend</i>	<i>Indexed</i>	-100	-86	-251	-346
Cash profits	Rs. Lacs	***	***	(***)	(***)
<i>Trend</i>	<i>Indexed</i>	100	143	-54	-324
Return on capital employed	%	(***)	(***)	(***)	(***)
<i>Trend</i>	<i>Indexed</i>	-100	-84	-346	-761

66. The above data indicates that though the petitioner domestic industry was earning cash profit in its domestic sales of the subject goods upto 2011-12 the cash profit on domestic sales have become significantly negative thereafter because of significant increase in costs without commensurate increase in prices in the domestic market. The net profit has remained negative throughout the injury investigation period and the losses have increased since 2012-13. As noted earlier the increase in costs over this period is due to significant decline in production because of demand decline and other factors, and the domestic industry has not been able to increase the prices due to the presence of dumped imports from several sources, including the subject countries, though the volumes remain low. The return on capital employed has remained negative in the entire injury investigation period and has worsened further during the POI.

c. Actual and potential impact on profit/loss, cash flow, return on capital employed

67. Other physical parameters of the domestic industry have been examined as follows:

Particulars-	Units	2010-11	2011-12	2012-13	POI Annualized
Inventory	Lac Pcs	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>77</i>	<i>62</i>	<i>51</i>
Number of employees	Nos	1,692	1,950	1,986	993
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>115</i>	<i>117</i>	<i>59</i>
Productivity per employee	Lac Pcs	8.78	7.09	5.57	3.74
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>81</i>	<i>63</i>	<i>43</i>
Wages	Rs. Lacs	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>118</i>	<i>123</i>	<i>49</i>

68. The above data indicates that there is a diminishing trend in the inventory built up of the domestic industry as the petitioner has regulated production in order to contain inventory levels. However, In spite of reduction and rationalisation of employment due to reduction in capacity and production, the productivity has fallen as the capacity utilisation has fallen below 50%.

I. Causal Link

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

have caused injury to the domestic industry. The following issues have been brought to the notice of the authority by the domestic industry and have been examined as per information available for the non-attribution analysis:

i. Import from other countries

70. The Authority notes that though the subject goods are being imported from several countries other than the subject countries the imports from some of these countries are either negligible or already attracting duty. There are significant imports from UAE. But these imports are at higher prices. However, total import to the country from other sources has significantly declined during the injury investigation period. Therefore, imports from other sources are not a factor affecting the domestic industry.

ii. Contraction in Demand

71. The Authority notes that there has been a continuous decline in demand of the products in the domestic market as well as global market. While recognising the fact that decline in global demand which affects the production and sale of the domestic industry as well, the Authority, in its previous finding dated Oct 2014, noted that though there is a decline in demand for DVDs in India in the last few years, which is on the line of global trends, DVDs would continue to remain the preferred medium for data storage and transmission for some time to come and therefore, cannot be considered as the major reason for the injury caused to the domestic industry.

72. The domestic industry, in its submissions, has argued

- That though the demand for the product under consideration has declined in the global market due to availability of competing and new technology products such as USBs/pen drives and other data storage devices such as blue rays and other internet platforms for entertainment related requirements, the DVD-Rs as a storage media device continues to have significant utility and for at least another ten years. The domestic industry has further argued that though there are various option available for data storage and transmission, per GB cost of storage and transmission through various media would still make use of DVD-Rs more viable and attractive option for some time to come and in fact these products are being used in certain segments more widely and new areas such as Photo storage, medical diagnostics, are emerging and demand in movies and games etc. continues. The domestic industry has presented a comparative cost analysis and usage of various storage and transmission option to justify its claim as follows:

Product	Market price Rs/Pc	Per GB Cost Rs/Pc	Usage	Remarks
CDR	8.5	12	One time storage	Largely getting substituted by DVDR Cheaper than DVDR. So, still some use
CDRW	15	21	Multiple time storage	Largely getting substituted by DVDRW Cheaper than DVDRW. So, still some use
DVD-R	15	3	One time storage	Continues to have significant decline Demand continues in rental movies and games Demand increased in photo segment medical diagnostics Sale of DVD players shows increase → present and potential demand for DVD-R
DVD-RW	40	10	Multiple time storage	Easy transportability More expensive for one time storage and transmission as compared to DVD-R Less expensive for one time storage and transmission as compared to DVD-R
Blue Ray	150	6	Multiple time storage	Easy transportability Expensive for one time storage and transmission
Pen-drive	200	25	Multiple time storage	Easy transportability Expensive for one time storage and transmission Demand not increasing so significantly
Internet with cloud		74	Downloading, viewing, transmission, & storage	Low penetration of internet in India (17%) Cloud usage is even below 5% Not available to masses Requires computer and knowledge Less transportability Expensive

- That demand of DVD is still significant in developed nations where the access to internet is widespread. Hence, it was submitted that DVD demand would remain significant in India in the coming years. As regards internet, as per information publicly available, the penetration of internet in the Country at 17% is so insignificant even today that it cannot be concluded that internet would prove to be a death knell for DVD-R. Physical media like DVD still generate more movie revenue than streaming services. Demand for physical

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

- That USB/Pen drives are used only in those applications where a consumer has to write contents multiple times. Use of USB/Pen drive in those applications instead of DVD- R, where the consumers would write only once, is a gross underutilization of a pen drive. DVD-R is much more cost effective as it costs only Rs. 15 (to the end consumer) as compared to a pen drive typically costing more than Rs. 200. It has been submitted that Pen drive is essentially required for frequent/multiple storing of data/contents. Therefore, USB/Pen-drive as a storage medium cannot substitute DVD-R market.
- That DVD-R presents a very good data storage platform for archival purpose for software, entertainment materials, etc which does not require multiple writing. Penetration of computer and internet is insignificant to lead to sharp decline in demand for DVD-R in this usage segments. New and emerging areas such as medical diagnostics, photo-storage, etc. would create new demands for DVDs.
- That as regards Cloud Storage, the usage of which is even lower at 5%, the cost per GB is estimated in the region of Rs. 74 per GB, and therefore this option is highly expensive, not at all cost effective and luxurious. Therefore, it is being used only by those consumers who are not at all cost conscious. However, as the data would show it is just impossible that this kind of demand for DVD-R can be taken away by theoretically possible options such as cloud storage. It means incurring a cost of about Rs. 4000 crores for applications which can be served by DVD-R by incurring a cost of Rs. 170 crores. There is absolutely no commercial substitutability between the two.
- That the most prominent sector where demand of DVD-R is high is the entertainment sector which includes rental movies, games, etc, which has not been penetrated by Blue Ray and Pen Drives despite their higher capacity. Emerging sectors include the medicine and hospital sector along with photography.

- That the above indicates that though there is a decline in demand for DVDs in India in the last few years, which is on the line of global trends, DVDs would continue to remain the preferred medium for data storage and transmission for some time to come.

73. This issue has been examined in the context of non-attribution analysis to see whether the decline in the demand in the country and overall global demand is due to advent of other technologies and therefore, a cause of injury to the domestic industry as follows:

- An analysis of demand supply scenario of the storage devices as per public available information from various sources indicates that the global recordable/re-recordable disc production which stood at 12.3 bn discs in 2012 has declined to 9.9 bn discs in 2015 and DVD-R production, which stood at 6.3 bn discs in 2012 has declined to 5.1 bn. However, the share of DVD-R in the total recordable/re-recordable disc production has increased from 49% to 51% (Futuresource Consulting Ltd.). The projection for global recordable optical disc market is to reach 4.224 bn units by 2025. The report further stated that awareness about data security and storage are expected to boost the demand for these products.
- As per CMR Report though the optical disc market in India is shrinking by about 9.6% CAGR (2012-16), the DVD-R market is still going strong, maximum decline being in the CD-R segment. The report also suggests that the consumption in photo segment, hospital diagnostic segment is increasing. The import of significant volume of DVD players into India in the recent years implies that there is still significant demand for the product which will continue to remain for at least next 5 to 10 years.

74. The above examination indicates that though demand for DVD-Rs as storage media devices is declining there is still substantial demand for the product and the product will continue to have significant global presence for some time to come. The performance of the domestic industry has been adversely affected by this decline as the petitioner industry has significant domestic as well as export sales of the subject goods. But the question is whether the current decline in performance of the domestic industry can be fully attributed to the demand decline alone.

75. The Authority notes that the petitioner domestic industry carries significantly high capacities for production of the subject goods and had major share in domestic as well as export market. These capacities were created at a time when the demands for these products were high and there was a reasonable expectation of good domestic and global market for the product. The production at present is

below 50% of the capacity and the domestic demand now is about 25% of its total capacity though its export sales historically accounted for above 50% of its total sales. Both the domestic and global market show declining trend though in absolute term there is still significant demand in the domestic market as well as global market which can be catered to by the petitioner if the prices are right.

76. Therefore, it appears that while the decline in demand has majorly affected the physical performance of the petitioner domestic industry, continued presence of dumped imports from various sources has further aggravated the situation as it has prevented price rationalisation to recover its costs. Therefore, demand situation alone cannot not be attributed to the injury suffered by the domestic industry.

iii. Pattern of consumption

77. The pattern of consumption of DVDs *vis-a vis* other competing products as discussed in the previous section indicates that though there is certain changes in the consumption patterns there is still significant consumption and demand for the DVD-Rs in India and shall continue for a significant period. Therefore, change in consumption pattern cannot be fully attributed to the injury suffered by the domestic industry.

iv. Conditions of competition:-

78. The petitioner domestic industry is the dominant player in the domestic market and other producers have very small market share. The investigation has not shown that conditions of competition or trade restrictive practices are responsible for the injury to the domestic industry.

v. Developments in technology:-

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

vi. Export performance of the domestic industry: -

80. The volume of exports of the domestic industry has declined significantly during the injury investigation keeping in line with the global trend and this has added to the injury of the domestic industry in terms of decline in production and capacity utilisation.

Particulars	Unit	2010-11	2011-12	2012-13	POI	Annualized POI
Export	Lac Pcs	***	***	***	***	***
Trend		100	103	62	132	67

81. However, the injury analysis in the previous section is based on the domestic performances of the domestic industry which is affected by the dumped imports. Prices and profitability in the domestic and export markets have been segregated by the Authority for the purpose of assessing injury to the domestic industry. Therefore, though decline in export performance has contributed to the injury, the injury suffered by the domestic industry on account of its export performance has not been attributed to the dumped imports.

J. Conclusion on current Injury and causal Links

82. The above examination of various injury parameters and non attribution factors for establishing the causal links between the dumping and injury indicates that the petitioner domestic industry has suffered injury in terms of loss in production and sale, decline in capacity utilisation, increase in losses and negative return on capital employed. The injury is significant and material. However, the volume of imports from the subject countries being too low at the moment the volume impact of dumped imports does not seem to be significant or material at present. The landed values of DVD-Rs imported from the subject countries continue to significantly undercut the prices of the domestic industry and also have underselling effect on the domestic industry's selling prices though the volume is low. On the other hand examination of demand scenario and capacities indicates that the said injury is substantially due to decline in the domestic as well as global demand for the product during the injury investigation period though the presence of dumped imports have aggravated the situation by way of preventing price increase in the domestic market to a remunerative level so as to enable the industry increase its production and sale to bring down the cost. Therefore, the Authority concludes that while the current dumped imports are not the principal cause of the injury suffered by the domestic industry at present, it has, through its price effects, not enabled the industry to improve its performance and recover.

K. Likelihood of continuation or recurrence of injury

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

domestic industry continues to suffer material injury though said injury is not proximately on account of the dumped imports. Therefore, the Authority has examined whether the injury would continue or intensify if the duties are revoked.

K.1 Submissions by the domestic industry

84. The petitioner has claimed that the cessation of anti dumping duties is likely to lead to continuation or recurrence of dumping and injury. It has been further claimed that the entire purpose of the review investigation is not to see whether there is a need for imposition of anti-dumping duty but to see whether in the absence of such duty, dumping would continue or recur; and whether the domestic industry would continue to suffer material injury or the injury to the domestic industry would recur if duties are removed. In this regard the petitioner has stated the following:

- a) Subject imports of DVD-R are undercutting the prices of the domestic industry in the absence of duties. Cessation of present anti dumping duty is likely to have significantly adverse effect on the prices of the domestic industry in the market.
- b) Continued adverse performance of the domestic industry shows likelihood of further deterioration in profits and return on capital employed in the event of cessation of anti dumping duties. Thus, cessation of present anti dumping duties is likely to lead to further deterioration in performance of the domestic industry.
- c) Presence of dumped imports in the Indian market continues to be significant. Even though the present volumes are low, the volume is likely to increase significantly in the event of cessation of anti dumping duties.
- d) Continued presence of dumped imports in the Country is preventing the domestic industry from charging fair price for the domestic industry. The price underselling being faced by the domestic industry is because of dumped imports.
- e) Growth of the domestic industry became negative in respect of a number of parameters. Under the circumstances, the growth shall become further negative in the event of cessation of anti dumping duty.
- f) The domestic industry is currently suffering from the effects of dumping of the subject goods. In the event of cessation of anti-dumping duties on imports from subject countries, injury to the domestic industry will not only continue but also intensify.
- g) If the trend of imports of product under consideration is analyzed, it will clearly show that there has been a consistent practice of dumping by

different countries in the past. If the anti-dumping duty is imposed on one set of countries, the dumping starts from other set of countries. This shift in imports clearly shows that the exporters are deliberately and consciously resorting to dumping to retain their market shares in global market due to over capacities in those countries.

- h) The Indian market for the product under consideration is highly price sensitive. The consumers decide their source, with the price being the foremost consideration. If the price undercutting is examined cumulatively from various dumped sources it would be seen that the weighted average price undercutting by dumped imports is significantly positive. Given the nature of the product under consideration, it is obvious that the producers in subject countries are unlikely to get a price different from the prices at which other foreign producers are exporting the product under consideration. Thus, the price undercutting from imports from other countries is a clear indicator of the price undercutting that is likely from the subject countries in the event of cessation of anti dumping duties.
- i) There is a strong likelihood of dumping and consequent injury as there is a global decline in demand for DVD. Since global demand for DVD has been declining, cessation of anti dumping duty on imports from the subject countries shall provide easy access to the producers in these countries to the vast Indian market while the demand is shrinking elsewhere since absolute demand for DVD in the Indian market still continues to be significant.
- j) The petitioner is already suffering material injury in terms of all parameters. Indian market for the product under consideration is highly price sensitive. The consumers decide their source, with the price being the foremost consideration. Such being the case, availability of such low priced imports from subject countries in the market would definitely cause an adverse impact over the Domestic Industry.
- k) It is not necessary that all conditions should exist for continuation of duty. There are numerous cases wherein the duty has been continued even when one or more parameters were satisfied.
- l) Even in the event of low volumes of imports reported during the POI of a sunset review investigation, anti-dumping duty can be continued. There are a number of instances where foreign authorities have continued the duty in the first and subsequent sunset reviews.
- m) India has extended anti dumping duties on a number of products despite low volume of imports. The illustrative cases in this regard includes zinc

oxide, Sodium Hydrosulphide, Duct Tile Iron Pipe, Front Axle Beam & Steering knuckles, Fully Drawn Yarn, Potassium Permanganate to name a few.

- n) Therefore, there is a likelihood of continuation or recurrence of dumping and consequent continuation of injury to the domestic industry. Therefore, the Authority should continue the duty.

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

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

K.3 Examination by the Authority

86. The Authority has looked into the current volume and value of imports of the subject goods from the subject countries as well as other countries and the volume of domestic sales of the domestic industry to examine the likelihood of continuation or recurrence of injury to the domestic industry in the event of revocation of anti dumping duty. The Authority notes that the current imports volumes are low from the subject countries as well as other countries. The Authority also notes that a clear likelihood of continuation/recurrence of dumping has been established in the previous section based on an objective examination of various factors. Accordingly, the following factors have been examined to see if there is any imminent likelihood of continuation or recurrence of injury:

a) Level of current and past dumping margins

87. The level of dumping margin both in the original as well as present investigation for DVD-Rs is significant though the volume of import during the POI from the subject countries is low. However, the Authority notes that antidumping duties on the subject countries, as well as few other countries, have been successful in preventing large scale dumped imports from these countries though these countries have significant spare capacities. Authority further notes that despite the domestic industry holding the capacity to meet the entire demand, significant volume of import is taking place from several countries at much lower prices. Therefore, there is a very high possibility that once the duties are removed imports will start from these countries at comparable prices. At these prices the price undercutting and underselling to the domestic industry prices will be significant preventing it to recover even the normated non-injurious price. Therefore, injury to the domestic industry, which still continues to suffer injury because of several factors, including dumping, is likely to be intensified.

b) Price attractiveness of Indian market

88. The prices at which the subject goods are being exported from the subject countries to India is an indicator of the likelihood of continuation/intensification of dumping. At the current landed price in India, there is positive undercutting even after taking into account applicable anti-dumping duty on the product. Thus, with the revocation of anti-dumping duty, the Indian market would be too attractive for the producers in the subject countries to intensify their exports to India at marginal cost prices and there is strong likelihood that Indian consumers would resort to large scale imports of the subject goods from the subject countries leading to intensification of injury to the domestic industry.

c) Global demand – supply scenario

89. There is a clear demand supply mismatch in the global DVD market, capacities exceeding the demand on the face of competing technologies. Therefore, there is clear possibility of aggressive market entry strategies being applied by global players and intensified dumping in India if duties are removed and the price level will be dictated by their market entry strategies leading to severe price undercutting and underselling which will further affect the domestic industry's capacity utilisation and profitability.

90. The petitioner domestic industry holds significant capacities for domestic as well as export sales. While the demand decline has significantly affected the production and sales and contributed to the injury suffered, the domestic market share and price plays a significant role in the survival of the industry. Therefore, if the duties are revoked the petitioner domestic industry is likely to lose significant share to the imports from the subject countries and the injury is likely to be intensified.

L. Post disclosure submissions of the interested parties

91. The disclosure statements were sent to the domestic industry and the embassies of the subject countries for their comments, if any. No comment has been received from any interested party other than the domestic industry. The domestic industry, in its comments have essentially re-iterated its position with regard to the demand scenario and likelihood of continuation or recurrence of dumping and injury and has requested for continued imposition of the duties in fixed term and dollar denominated.

M. Magnitude of Injury and injury margin

92. The non-injurious price of the subject goods produced by the domestic industry, as determined by the Authority in terms of Annexure III to the AD Rules, has been compared with the landed value of the exports from the subject countries

for determination of injury margin during the POI and the injury margin so worked out is as follows:

Particulars	Unit	Thailand	Vietnam
Non Injurious Price	US\$/000'Pcs	***	***
Landed Price	US\$/000'Pcs	71.61	73.96
Injury Margin	US\$/000'Pcs	***	***
Injury Margin	%	***	***
Injury Margin	% Range	55-65	50-60

N. Conclusion on injury and Likelihood of injury

93. In conclusion the Authority notes that the subject goods from the subject countries continue to enter the Indian market at dumped prices which significantly undercut the prices of the domestic industry even if the present antidumping duty on them is taken into consideration to calculate the landed values. The import prices are also significantly below the fair price or the non-injurious price determined for the petitioner domestic industry after removing all abnormal costs as per the consistent practice of the Authority. Given the current global demand scenario and the projections as recorded in the previous section and the capacities available in these countries there is a clear likelihood of continuation or intensification of dumping when these producers compete to keep their production lines operational at marginal cost prices. If the said trend continues the prices will continue to significantly undercut the domestic industry's prices once the duty protection is removed and that would prevent any price recovery for the domestic industry. If the prices in the domestic market do not recover the domestic industry would not be able to improve and rationalise its production to bring down the costs and the losses will increase.

94. The domestic industry carries significant capacities at the cost of significant investment. The demand situation, as analysed in the previous situation, indicates that though the product is on decline or phase out curve, there shall be significant demand for the product in absolute term for at least next 5-10 years which can be catered to by the domestic industry with some rationalisation of the capacities. However, if the duties are revoked the production and sales volume will further fall and make the production completely unviable as the current prices of dumped imports without duty element would be less than the variable costs of the domestic industry and imports are likely to increase significantly as the market still exists. Therefore, there is a clear and imminent likelihood of continuation and intensification of the injury suffered by the domestic industry if the duties are revoked.

O. Indian industry's interest & other issues

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

P. Recommendations

96. The Authority initiated and conducted the investigation into current dumping, injury and causal links between dumping and injury to the domestic industry and likelihood of continuation or recurrence of dumping from the subject countries and consequent injury to the domestic industry in the event of withdrawal of duty in terms of the Rules laid down. It has been clearly established in the foregoing paragraphs that there is a clear and imminent likelihood of continuation or recurrence of dumping from the subject countries, in the event of withdrawal of duty.

97. It has also been established that the domestic industry is likely to continue to suffer material injury and the injury would intensify if the duties are removed. Therefore, there is a need for continued imposition of the duties to protect the domestic industry against continuation / recurrence of dumping from the subject countries and continuation/ recurrence of injury to the domestic industry.

98. In the factual matrix of the case and keeping in view the current dumping and injury margins of DVD-Rs and DVD-RWs the Authority is of the view that there is a need to extend the duties on DVD-Rs originating in or exported from the subject countries.

99. Therefore, the Authority recommends continuation of duty, on the subject goods originating in or exported from the subject countries as per the dumping and injury margins calculated for the investigation period, for a further period of 5 years from the date of its imposition to prevent recurrence of dumping and consequent injury to the domestic industry. Having regard to the lesser duty rule followed by the authority, the Authority recommends continuation of definitive anti-dumping duties equal to the lesser of margins of dumping and margins of injury so established for DVD-Rs, originating in or exported from the subject countries so as to remove the injury to the domestic industry.

100. The duties, arising out of the previous investigation, were imposed in terms of fixed duties. Accordingly, the Authority recommends continued imposition of definitive antidumping duties equal to the amount indicated in Column-9 of the table below from the date of notification to be issued in this regard by the Central Government, on all imports of DVD-Rs originating in or exported from the subject countries for a further period of 5 years.

Duty Table

Sl. No	Sub Heading or Tariff Item	Description of Goods	Specificati on	Country of origin	Country of Export	Producer	Exporter	Duty Amount	Unit of Measure	Curren cy
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
1	8523	Digital Versatile Discs, Recordable	DVD-R, DVD+R, and mini DVD-R	Vietnam	Any	Any	Any	41.35	Per 1000 pieces	USD
2	-Do-	-Do-	-Do	Any country other than the subject countries and countries attracting antidumping duty under any other Notification	Vietnam	Any	Any	41.35	-do-	-do-
3	-Do-	-Do-	-Do	Thailand	Any	Any	Any	43.70	-do-	-do-
4	-Do-	-Do-	-Do	Any country other than the subject countries and countries attracting antidumping duty under any other Notification	Thailand	Any	Any	43.70	-do-	-do-

Note

Where there is overlapping of antidumping duty on the subject goods with respect to subject country in different customs notifications, the duty applicable to that subject country shall be the one imposed under the customs notification in which the said country has been specifically mentioned under the Column "Country of Origin".

Q. Further Procedures

101. An appeal against the orders of the Central Government that may arise out of this recommendation shall lie before the Customs, Excise and Service tax Appellate Tribunal in accordance with the relevant provisions of the Act.
102. The Authority may review the need for continuation, modification or termination of the definitive measure as recommended herein from time to time as per the relevant provisions of the Act and the Rules, and Public Notices issued in this respect from time to time. No request for such a review shall be entertained by the Authority unless the same is filed by an interested party as per the time limit stipulated for this purpose.

A. K. Bhalla
Designated Authority