

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

F. No.6/4/2017-DGAD

Government of India

Ministry of Commerce & Industry

Department of Commerce

Directorate General of Anti- Dumping & Allied Duties

Jeevan Tara Building, New Delhi-110001

Dated 7th June, 2018

NOTIFICATION

FINAL FINDINGS

(Case No. O.I/09/2017)

Subject: Final Findings in the Anti-dumping investigation concerning imports of Sodium Dichromate originating in or exported from Russia, South Africa, Kazakhstan and Turkey.

No. 6/4/2017 -DGAD: - Having regard to the Customs Tariff Act, 1975, as amended from time to time (hereinafter also referred to as the Act), and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended from time to time, (hereinafter also referred to as the Rules) thereof:

1. Whereas M/s Vishnu Chemicals Limited (hereinafter also referred to as the Petitioner or Applicant) has filed an petition before the Designated Authority (hereinafter also referred to as the Authority) in accordance with the Customs Tariff Act, 1975 as amended from time to time (hereinafter also referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of injury) Rules, 1995 as amended from time to time (hereinafter also referred to as the Rules) for imposition of Anti-dumping duty on imports of "Sodium Dichromate" (hereinafter also referred to as the subject goods or PUC) from Russia, South Africa, Kazakhstan and Turkey (hereinafter also referred to as the subject countries).
2. And, whereas, the Authority, on the basis of sufficient evidence submitted by the petitioner, issued a public notice vide Notification No.6/4/2017-DGAD dated 4th July, 2017, published in the Gazette of India, initiating the subject investigation in accordance with the sub rule 5 of the above Rules to determine existence, degree and effect of the alleged dumping of the subject goods, originating in or exported from the subject countries, and to recommend the amount of anti-dumping duty, which, if levied, would be adequate to remove the alleged injury to the domestic industry.

A. PROCEDURE

3. The procedure described herein below has been followed by the Authority with regard to the subject investigation:
- (i) The Authority notified the Embassies of the Subject Countries in India about the receipt of the present anti-dumping application before proceeding to initiate the investigation in accordance with Sub-Rule (5) of Rule 5 supra.
 - (ii) The Authority issued a public notice dated 4th July, 2017 published in the Gazette of India Extraordinary, initiating anti-dumping investigation concerning imports of the subject goods.
 - (iii) The Authority sent a copy of the initiation notification to the Embassies of the Subject Countries in India, known producers/exporters from the subject Countries, known importers/users and the domestic industry as well as other domestic producers as per the addresses made available by the applicants and requested them to make their views known in writing within 40 days of the initiation notification.
 - (iv) The Authority provided a copy of the non-confidential version of the application to the known producers/exporters and to the embassy of the subject Countries in India in accordance with Rule 6(3) of the Rules supra.
 - (v) The Embassies of the subject Countries in India was also requested to advise the exporters/producers from their countries to respond to the questionnaire within the prescribed time limit. A copy of the letter and questionnaire sent to the producers/exporters was also sent to them along with the names and addresses of the known producers/exporters from the subject countries.
 - (vi) The Authority sent questionnaires to elicit relevant information to the following known producers/exporters in the subject countries in accordance with Rule 6(4) of the AD Rules:

S.N.	Name of the Company
South Africa	
1.	a) M/s Lanxess Cisa Pvt. Ltd. b) M/s Lanxess (Pty) Ltd
Russia	
2.	M/s Nova Chrome
Turkey	
3.	a) M/s Sisecam Dis Ticaret A.S. b) M/s Soda Sanayaii A.S
Kazakhstan	
4.	M/s JS Aktyubin Sk Chromium

- (vii) In response, the following exporters/producers from the subject countries filed exporter's questionnaire response in the prescribed format:

- (i) M/s Lanxess Cisa Pvt. Ltd. (producer), South Africa
- (ii) M/s Lanxess (Pty) Ltd (exporter), South Africa.
- (iii) M/s Soda Sanayii A.S (producer), Turkey
- (iv) M/s Sisecam Dis Ticaret A.S, Turkey.

(viii) The Authority sent Importer's Questionnaires to the following known importers/users of subject goods in India calling for necessary information in accordance with Rule 6(4) of the Rules:

SN	Name of the Company	SN	Name of the Company
1.	M/s Anupam Colors and Chemicals	2.	M/s Anupam Colors
3.	M/s Swati Petro Products Pvt Ltd	4.	M/s Solar Chemferts Pvt Ltd
5.	M/s Raveshia Colours Pvt Ltd.	6.	M/s A.S. Enterprises
7.	M/s Mica Organics Ltd.	8.	M/s Sudarshan Chemical Industries Ltd
9.	M/s Shri Vardayani Chemical Industries Ltd.	10.	M/s Ridhi Pharma
11.	M/s Vapi Pigments Chemicals & Alted Products	12.	M/s Vapi Oxides and Colours Ltd.
13.	M/s Colour Chromes Pvt. Ltd.	14.	M/s KN Chemicals
15.	M/s Indo Tan Chemicals Ltd.	16.	M/s Shasun Chemicals and Drugs Ltd
17.	M/s Industrial Organics Limited (Formerly Trident Alco-Chem Limited)		

(ix) In response, the following importers/users have responded and filed importer's questionnaire response:

- i. M/s Micas Organics
- ii. M/s Strides shasun Ltd.
- iii. M/s GEE international
- iv. M/s Voxcon Pigments and chemicals Pvt Ltd
- v. M/s IOL Chemicals and Pharmaceuticals Limited
- vi. M/s Aishwarya Mechfo (India) Pvt. Ltd
- vii. M/s Colour Chromes Pvt. Ltd
- viii. M/s Sona Synthetics Products
- ix. M/s Sudarshan Chemical Industries Limited
- x. M/s Anupam colours Private Limited
- xi. M/s Anupam Colours & Chemicals Industries
- xii. M/s Solar Chemferts Pvt Ltd

(x) Apart from the respondent exporters and importers mentioned above, some legal submissions have been received on behalf of the following parties during

the course of this investigation. However, no importer/exporter's questionnaire have been filed by the following parties.

- i. The Trade Representation of the Russian Federation in the Republic of India.
 - ii. JSC Aktyubinsk Chromium Chemicals Plant, Kazakhstan.
 - iii. JSC NPCC, Russia
 - iv. Swati Petro Products Pvt. Ltd.
 - v. Skystep Trading Ltd.
 - vi. Ministry of National Economy of the Republic of Kazakhstan and the First Vice Minister.
 - vii. Russian Federation the Ministry of Industry and Trade of the Russian Federation.
-
- (xi) The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by the interested parties;
 - (xii) Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to provide the transaction-wise details of imports of subject goods for the past three years, and the period of investigations, which was received by the Authority. The Authority has, relied upon the DGCI&S data for computation of the volume of imports and required analysis after due examination of the transactions.
 - (xiii) The Non-injurious Price (NIP) based on the cost of production and cost to make & sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) and Annexure III to the Anti-dumping Rules has been worked out so as to ascertain whether Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to the Domestic Industry.
 - (xiv) Table study for the Verification of the information provided by the applicant domestic industries, to the extent deemed necessary, was carried out by the Authority. Only such verified information with necessary rectification, wherever applicable, has been relied upon for the purpose of present final findings.
 - (xv) Table study of the information provided by the producers/exporters, to the extent deemed necessary, was carried out by the Authority and has been relied upon for the purpose of present final findings.
 - (xvi) The Period of Investigation for the purpose of the present anti-dumping investigation is for the period from 1st April, 2016 to 31st March, 2017 (12 Months). The injury investigation period has however, been considered as the period from 2013-14, 2014-15, 2015-16 and the POI.
 - (xvii) 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 hearing held on 26th March, 2018. All the parties who had attended the oral hearing were

advised to file written submissions of the views expressed orally. The parties were advised to collect copies of the views expressed by the opposing parties and were advised to offer their rebuttals.

- (xviii) The arguments made in the written submissions/rejoinders received from the interested parties have been considered in the present final findings.
- (xix) The submissions made by the interested parties during the course of this investigation, wherever found relevant, have been addressed by the Authority, in this final findings.
- (xx) 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.
- (xxi) In view of the de-minimus dumping margin from Russia, AD investigation against Russia has been terminated. Therefore, the subject countries in this investigation now constitute only South Africa, Kazakhstan and Turkey.
- (xxii) 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 considered such parties as non-cooperative and recorded the final findings on the basis of the facts available.
- (xxiii) The exchange rate adopted by the Authority for the subject investigation is 1 US \$= Rs 67.95

B. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

B.1 Submissions made by the Domestic Industry

- 4 The submissions made by the domestic industry with regard to product under consideration and like article and considered relevant by the Authority are as follows:
- i. The product under consideration in the present investigation is “Sodium Dichromate’ or ‘Sodium Dichromate’ in anhydrous and di-hydrate form” (hereinafter referred to as ‘subject goods’ also). Chemical formula of the product under consideration is “Na₂Cr₂O₇”. The only difference between Sodium dichromate di-hydrate form and sodium dichromate anhydrous form is of the moisture content in the two.
 - ii. Sodium dichromate is used as an oxidizing agent for many organic synthesis and bulk drugs especially ibuprofen production. It is used in metal finishing industries, anti-corrosive applications, water treatment chemicals, pigments, paints etc. It is also used in manufacture of other chromium chemicals.
 - iii. Petitioner produces sodium dichromate in dihydrate form, which has moisture content to the tune of around 11-12%. The imports from South Africa are also

in di-hydrate form; whereas, the imports from Russia, Turkey and Kazakhstan are in the anhydrous form having minimum moisture. Therefore, the moisture level has been proportionately adjusted in order to enable fair comparison between the domestically produced product and the imported product.

- iv. The only difference between di-hydrate form and anhydrous form is of the moisture content in the two. The product under consideration is first produced in solution form, wherein dichromate content is in the region of 50%. In order to save on transportation cost, the moisture is evaporated and reduced to 11-12% by some producers and to 0.5% by others. Whatever be the moisture content of the product, the first process at the consumer's end is to dilute the product again in the region of 50% before use in the production process. Since the product is used by the consumers for the content of dichromate present in it and if dichromate content is higher, it only means proportionately lower consumption.
- v. Consumers in all segments have been using sodium dichromate produced by the applicant which clearly shows that there is no difficulty in using the product produced by the applicant and that the products are substitutable with the subject goods imported from the subject countries. Consumers are using the subject goods produced by the domestic industry and exported from subject countries interchangeably.
- vi. The product under consideration is classified under Chapter 28, sub-heading 2841 3000, of the Customs Tariff Act. The Customs Classification is, in any case, indicative and not binding on the scope of the product under consideration

B.2 Submissions made by the other interested parties

- 5 The submissions made by the exporters, importers, users and other interested parties with regard to product under consideration and like article, and considered relevant by the Authority, are as follows:
 - i. There is difference in both the forms of the product. The initiation notification did not highlight the difference between the two forms of the PUC. Pricing, manufacturing, physical and chemical properties are different for these two forms. The two forms of the product are different and the same should not be treated as one single product.
 - ii. Product of ACCP varies from PUC on molecular weight, appearance, solubility, specific gravity, heat of solution. ACCP's product has 0.2%-0.4 percentage of moisture and easily distinguishable from PUC. Petitioner falsely states that product of ACCP has negligible moisture.
 - iii. The basis for adjustment between the domestic price and the imports has not been provided or substantiated by the domestic industry.
 - iv. Domestic industry has misclassified the PUC imported from Russia, Turkey and Kazakhstan by stating that it contains 99% moisture. Imported product

from Russia, Turkey and Kazakhstan contains moisture of approximately 2%. Safeguard findings also establish that the hydrated variety is manufactured by the DI which contains 12-14% and imported product is in anhydrous form and it contains approx. 2% moisture.

B.3 Examination by the Authority

6. The Authority has noted submissions made by various interested parties with regard to scope of the product under consideration and like article offered by the domestic industry. With respect to the product under consideration, the Authority notes:
- i) The product under consideration is 'Sodium Dichromate' also known as 'Sodium Dichromate' which exists in both the anhydrous and di-hydrate forms. It is used as oxidizing agent for many organic synthesis and bulk drugs especially ibuprofen production. It is used in metal finishing industries, anti-corrosive applications, water treatment chemicals, pigments, paints, etc. It is also used in manufacture of other chromium chemicals.
 - ii) As regards the contention of the interested parties that 'Sodium Dichromate' in anhydrous and di-hydrate forms are different products, it is noted that the anhydrous and di-hydrate forms are merely two forms of the product under consideration. The only difference between Sodium dichromate di-hydrate and sodium dichromate anhydrous form is of the moisture content in these two forms. Petitioner produces sodium dichromate in di-hydrate form, which has moisture content to the tune of around 11-12% whereas the imports from Russia, Kazakhstan and Turkey are of anhydrous form of the product which has negligible moisture content. However, imports from South Africa are of di-hydrate form. It is further noted that the end uses, application and the manufacturing process of the two forms are also the same. The consumers are consuming the imported subject goods of both anhydrous/dehydrate forms and domestically produced subject goods of dehydrate form interchangeably. In view of the substitutability and uses of the product, the Authority notes that Sodium Dichromate anhydrous and di-hydrate are merely two forms of the product under consideration i.e. Sodium Dichromate.
 - iii) Further, for the purpose of the present investigations and for a fair comparison, the 'anhydrous' form of the product which has negligible moisture as exported from Kazakhstan, Russia and Turkey has been converted to the 'Di-hydrate' form as produced by the domestic industry, to bring volume of subject goods and purity therein at same level. During the course of verification of information filed by the domestic industry and based on the information provided by them, it is noted that dihydrate form of subject good has the molecular weight approximately 298 gm/ mol whereas anhydrous form of the subject goods has the molecular weight approximately as 262 gm/mol. In view of the molecular weight of the two different forms of PUC due to the moisture content, imports volume from Russia, Kazakhstan and Turkey have been converted from anhydrous to dihydrate sodium dichromate in order to have the fair comparison with domestically produced dihydrous Sodium Dichromate. Based on the examination of the information filed by the interested parties, the Authority confirms the product under consideration is Sodium Dichromate. It is classified

under Chapter 28 of the Customs Tariff Act under subheading 2841 3000 but, in any case, the same is indicative and not binding on the scope of the product under consideration.

C. SCOPE OF DOMESTIC INDUSTRY & STANDING

C.1 Submissions made by the Domestic Industry

7. The submissions made by the domestic industry during the course of the investigation with regard to scope of domestic industry & standing are as follows:
- i. The application was filed by petitioner, M/s Vishnu Chemicals Limited, along with two supporters namely, M/s Kanakdurga Chemicals and M/s Konark Chrome Chemicals Ltd. With or without the supporters, the petitioner occupies a major proportion of the total Indian production.
 - ii. The petitioner has neither imported the subject goods from any of the subject countries nor is related to any exporter or producer of the product under consideration from the subject countries.
 - iii. The petitioner has sufficient standing and constitutes domestic industry within the meaning of the Rules.
 - iv. Supporters have provided information relating to production, sales, stocks and capacity. Kanakadurga had to shut down its plant on account of aggressive dumping by the exporters. Petitioner's performance shows that the domestic industry is suffering material injury.

C.2 Submissions made by the other interested parties

8. The submissions made by the exporters, importers, users and other interested parties with regard to scope of domestic industry & standing are as follows:
- i. Information with regard to the other supporters is unreliable and irrelevant in the current investigation. No producers including the supporters have provided any information and this is merely an attempt by the petitioner to show that the other Indian producers are also affected.
 - ii. Claim of Kanakdurga does not have any merit as it has neither produced the goods in the POI nor has stated if it can restart production.

C.3 Examination by the Authority

9. Rule 2(b) provides as under:

“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”

10. The present application was filed by M/s Vishnu Chemicals Limited and supported by M/s Kanakdurga Chemicals and M/s Konark Chrome Chemicals Ltd. The production of the applicant accounts for 82% of domestic production of like article in India. Further, the applicant is not related to any exporter or importer thereof and has not imported the subject goods itself. As regards the producer wise production of the subject goods, the Department of Chemicals and Petrochemicals stated that department do not monitor the production details of Sodium Dichromate.
11. Based on the examination of information on record shows that the domestic industry's production alone constitutes “a major proportion” of total Indian production. Accordingly, after careful examination of the legal provisions and facts of the case, the Authority, holds that the applicant constitutes eligible domestic industry within the meaning of Rule 2 (b) of the Anti-Dumping Rules and the application satisfies the criteria of standing in terms of Rule 5 (3) of the Rules supra.

D. ISSUES RELATING TO CONFIDENTIALITY

D.1 Submissions by the Domestic Industries

12. With regard to confidentiality, the submissions made by the domestic industry during the course of the investigation are as follows:
 - i. The petitioner has claimed only such information as confidential, the confidentiality of which has been permitted under the rules and as per consistent practice of the Authority.
 - ii. The petitioner has provided non confidential version of the application in sufficient detail. None of the interested party has been able to bring any specific instance of information which has been claimed confidential and confidentiality of which is not justified as per AD Rules.
 - iii. Information with respect to Post invoicing discounts by the interested parties cannot be disclosed as the same has been sourced from a third party, disclosure of which would hamper the business interests of the third party.

D.2 Submissions made by the other interested parties

13. The submissions made by the producers/exporters/importers/other interested parties with regard to confidentiality and considered relevant by the Authority are as follows:
- i. Information claimed confidential needs to be verified, as DG Safeguard has disclosed the same information in their safeguard findings which has been claimed confidential.
 - ii. Post invoicing note as held confidential should be disclosed to Lanxess, as it directly pertains to them.

D.3 Examination by the Authority

14. With regard to confidentiality of information, Rule 7 of Anti-dumping Rules provides as follows:-

Confidential information: (1) Notwithstanding anything contained in sub-rules (2), (3) and (7) of rule 6, sub-rule(2) of rule 12, sub-rule(4) of rule 15 and sub-rule (4) of rule 17, the copies of applications received under sub-rule (1) of rule 5, or any other information provided to the designated authority on a confidential basis by any party in the course of investigation, shall, upon the designated authority being satisfied as to its confidentiality, be treated as such by it and no such information shall be disclosed to any other party without specific authorization of the party providing such information.

(2) The designated authority may require the parties providing information on confidential basis to furnish non-confidential summary thereof and if, in the opinion of a party providing such information, such information is not susceptible of summary, such party may submit to the designated authority a statement of reasons why summarization is not possible.

(3) Notwithstanding anything contained in sub-rule (2), if the designated authority is satisfied that the request for confidentiality is not warranted or the supplier of the information is either unwilling to make the information public or to authorise its disclosure in a generalized or summary form, it may disregard such information.

15. The Authority made available non-confidential version of the information provided by various interested parties to all interested parties through the public file containing non-confidential version of evidences submitted by various interested parties for inspection as per Rule 6(7).

- (i) Submissions made by the domestic industry and other opposing interested parties with regard to confidentiality to the extent considered relevant were examined by the Authority and addressed accordingly. 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 confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis was directed to provide sufficient non confidential version of the information filed on confidential basis. The Authority made available the non-confidential version of the evidences submitted by various interested parties in the form of public file. The Authority also notes that all interested parties have claimed their business related information as confidential.

E. MISCELLANEOUS SUBMISSIONS

E.1 Submissions made by the domestic industry

16. The miscellaneous submissions made by the domestic industry are as follows:
 - i. Domestic industry could not implement adjustment plan as the Safeguard findings were negative and thus the domestic industry continued to suffer injury. Deterioration in performance of the domestic industry could not have been due to possible non-adoption of adjustment plan.
 - ii. The request of anti-dumping duty is not against public interest rather the non-imposition of the anti-dumping duty would have devastating effects on the Indian industry than the imposition of the duty. Effect of such low priced imports was seen earlier when 'Kanakdurga' was ousted and forced to shut their business.
 - iii. Anti-dumping measure is a measure that is imposed against unfair trade practise. Trade among nations is promoted but it should not be at the cost of dumping/unfair trade practices.
 - iv. The pollution control board gives the permit for quantitative production only after considering all the relevant factors and nobody can raise an objection to the same in anti-dumping investigations. The DG safeguard was misled and erred in holding that the petitioner does not have a capacity of 70,000 MT.
 - v. As regards reference of imports in Annual Reports of the domestic industry, the information for that period of investigation is of utmost importance. The imports had declined in the period 2014-15, 2015-16 and thus there was no reference to the same in the annual report. Imports increased significantly in the POI and reference has been made to the same. The annual report for POI also states the effect of dumping on the industry.
 - vi. DG safeguard finding considered imports as per IBIS whereas the petitioner has considered DGCI&S data in the application. DG Safeguard finding however erroneously states the source as DGCI&S.
 - vii. Capacity of the petitioner as provided in the petition is the capacity for the concerned product. The plant was set up for the production of the product concerned and due to absence of orders from the domestic consumers, the petitioner has been forced to produce derivatives of the product concerned.
 - viii. As regards the difference of information in AD application and safeguard

findings during 2013-14, the domestic industry submitted that capacity was considered by the Safeguard Authority as 55600 MT taking into account the capacity of Bhilai Plant as 16,000 MT also however, the capacity of the Vizag was not correctly computed as per PCB order. However, in this investigation capacity of the Vizag plant has been considered as 70000 MT for the POI as per the consent order of Pollution Control Board which has been duly verified by the Authority. As regards the difference in figures of import volume during the same period, the domestic industry has submitted that DG Safeguard has taken the import volume as per the DGCI&S published data, however, in the present investigation the transaction wise data of the DGCI&S import data has been considered and which has been duly verified. Similarly, the domestic sales in the safeguard investigation was considered as captive transfers from Vishakhapatnam to Bhilai Plant, whereas domestic sales in this investigation consider the same as captive consumption. However, the minute difference is still there due to the reason that closing transfer from Vishakhapatnam to Bhilai has been treated as domestic sales in the safeguard investigation, however, the same has been considered as inventory in AD investigation.

- ix. The domestic industry has submitted, if the safeguard duty is imposed, they will take steps to increase competitiveness. Since the safeguard duty is not imposed, it is not appropriate to expect that the domestic industry will still implement the adjustment plan. However, they have stated that implementation of adjustment plan is already in process. Even though the domestic industry has been trying to implement the adjustment plan given in the safeguard investigation, the domestic industry has not been able to completely implement it. In the process of implementation of adjustment plan the domestic industry has been able to install CO₂ acidification plant and trial is being undertaken. However, the CO₂ recovery plant is still to install. The complete installation and stabilization of CO₂ acidification and recovery process will take at least 2 years, as a cost cutting measure under the adjustment plan. However, the domestic industry has requested the authority to consider the request for imposition of AD duty thereby, they could implement the adjustment plan without any further injury to the domestic industry.

E.2 Submissions made by the other interested parties

17. The submissions made by the producers/exporters/importers/other interested parties with regard to miscellaneous issues during the course of the investigation are as follows:
- i. In the safeguard findings, an implementation plan for becoming competitive was submitted. It should be verified if the same has been implemented.
 - ii. Report published by the petitioner does not support their own claim of suffering losses. The same report also mentions proposed expansion projects.

- iii. Despite the growing trade volumes between Turkey and India the trade deficit against Turkey has also been growing. The volume of Turkish exports cannot harm Indian market and any dumping measure would likely deteriorate trade deficit against Turkey.
- iv. The petitioner wants to protect its market dominance and monopolistic position against fair priced products.
- v. There is no factual basis for claiming post invoicing discounts. No evidence has been provided by the petitioner in support of the same.
- vi. The claim on over invoicing amounts to mis-declaration of value which is required to be examined in accordance with Section III of Customs Act, 1962 and the related procedures or under the relevant provisions of the Foreign Exchange Management Act, 1999 and not under anti-dumping.
- vii. The only basis for claim of post invoicing discount is that the product imported from South Africa is higher than that of the DI. There are a number of factors where imports are to be made including quality consideration, inability of the domestic industry to supply the product etc. In fact, DG Safeguards noted instances where domestic industry was not able to supply the required quantities and quality of sodium dichromate to the customers.
- viii. The production capacity as stated by the petitioners is wrong as it includes the total capacity of the petitioners wherein other products are also produced. The petitioner can only sell limited quantities of the product. As can be seen in the Pollution control board consent order and considering the capacities mentioned therein, the petitioner can actually produce about 54 MT of the product per day. Total domestic sales in the merchant market during the POI were 13,853 MT. Thus, there is no further scope to increase its domestic sales of sodium dichromate to meet the total domestic demand. Information provided in the petition regarding volume parameters and the volume information disclosed in the Final findings issued by DG Safeguards vary for the period 2013-14.

E.3 Examination by the Authority

18. Various submissions made by the interested parties with regard to miscellaneous issues and considered relevant by the Authority are examined and addressed as follows:
 - i. As regards the issue of implementation of adjustment plan provided in the safeguard investigation, the domestic industry has submitted that they continued to suffer injury, however, the domestic industry is in process of implementing the adjustment plan as brought before the Safeguard Authority. In the Safeguard findings dated 15th January, 2015, the domestic industry laid down the adjustment plan with regard to the deduction in cost of production by introduction of an alternate CO₂ acidification process. However, the domestic industry submitted before the Safeguard Authority that with the imposition of

Safeguard duty, their production and capacity utilization would increase which will lead to reduction in overheads cost leading to further decline in cost. The Safeguard Authority has arrived in its findings after examination of the views of the interested parties that the adjustment plan submitted by the domestic industry is without any time frame for implementation of its CO₂ acidification process so as to show that the domestic industry would adjust to the competition from the foreign suppliers. However, the Safeguard investigation was terminated in view of absence of causal link and other factors required for recommendation of safeguard duty.

- ii. The domestic industry had submitted that they would focus on cost reduction by introduction of an alternate CO₂ acidification process and in the process of implementation of adjustment plan the domestic industry has been able to install CO₂ acidification plant and trial is being undertaken. However, the CO₂ recovery plant is still to install. The domestic industry has further submitted that complete installation and stabilization of CO₂ acidification and recovery process will take at least 2 years, as a cost cutting measure under the adjustment plan. It is noted that the alleged adjustment plan as suggested in the safeguard findings, could have made domestic industry more cost effective. However, the domestic industry has submitted that under the AD Rules, the Authority is required to consider the domestic industry as it exists and examine whether the performance of the domestic industry deteriorated over the injury period, if any, due to dumped imports from specific sources, unlike safeguard duty investigation which constitute all imports of the subject goods from all source. The performance of the domestic industry has, accordingly, been examined based on the information available before the Authority.
- iii. As regards the argument that dumping measures are likely to imbalance the trade deficit against Turkey, it is noted that the trade between nations is encouraged at a fair and competitive price.
- iv. As regards the argument that the petitioner is trying to monopolize and protect its market position, it is noted that there are other producers in the market and two of them have also supported the application. Further, it is noted antidumping measure, if imposed, it is only after complete examination and analysis of the information on record that dumping is causing injury to the domestic industry. In any case, imposition of anti-dumping duty does not restrict imports, but the users will have the broader choice and liberty to import the subject goods at fair prices from undumped sources which will render better competition in the market.
- v. As regards the argument regarding the capacity of the domestic industry as evidenced from the pollution control board and the focus on downstream products by the domestic industry, the Authority has examined the consent

order of the pollution control board. Vishnu chemicals has claimed actual installed capacity of 70,000 MT per annum (210 MT per day) for Vizag plant, in addition to this there was an additional capacity of 16000 MT in Bhilai plant (Chhattisgarh). But domestic industry has informed that there was no production in Bhilai plant since 2015-16. It is noted that Andhra Pradesh Pollution Control Board (APPCB) vide their order No. 7301/PCB/ZO-Vsp/Tech/2012 -58 dated 23/04/2012 had given the consent to M/s Vishnu Chemicals to produce Sodium Dichromate @120 MTPD only. Considering the 333 working days in a year, capacity for Sodium Dichromate works out to 39960 MT Per Annum. This capacity was revised to 210 MT of Sodium Dichromate per day by the APPCB vide consent order dated 20/06/2016. Based on the above, the Authority has considered the enhanced capacity for Sodium Dichromate w.e.f 20.06.2016 and which works out to be 63,360MT during the POI.

- vi. Further, petitioner has submitted that the production of subject goods in Bhilai, which had the capacity to produce subject goods to the tune of 16,000MT, was suspended during 2015-16 on account of lack of available domestic market in view of import of subject goods taking away the share of domestic market. Thus, lack of capacity for the merchant sales of sodium dichromate or the focus of the domestic industry on downstream market is causing injury as contended by the opposing interested parties does not hold merit. Further, in any case, assuming that the capacity available with the domestic industry for merchant sales is less than the demand prevailing, it is noted that the demand supply gap does not justify dumping of subject goods. The imports needs to be made at fair prices.
- vii. As regards the argument of difference in figures of sales, captive consumption, production etc. the domestic industry has submitted that the same information has been provided for the period 2013-14 to the safeguard authority also which has been submitted in this investigation. In support of this, the domestic industry has filed the cost audit report for this period. Based on the information of the Cost Audit Report, It is noted that the combined figure of sales and the captive consumption as per the cost audit report does tally to the extent with the combined figure of sales and captive consumption as disclosed in the safeguard finding. However, the individual figure for the captive consumption and sales disclosed in the safeguard finding do vary with the figures reported in the cost audit report of the domestic industry. With regard to such difference, the domestic industry has submitted that the domestic sales in the safeguard investigation was considered as captive transfers from Vishakhapatnam to Bhilai Plant, whereas domestic sales in this investigation consider the same as captive consumption. However, the minute difference is still there due to the reason that closing transfer from Vishakhapatnam to Bhilai has been treated as domestic sales in the safeguard investigation, however, the same has been

considered as inventory in AD investigation, as claimed by the domestic industry. Similarly, it has been seen that the domestic industry has reported the sales of other producers as 8,500 MT for the period 2013-14 before the Safeguard Authority, however, the safeguard authority has reported the volume of other Indian producers as 6,850 MT, which leads to the difference in computation of demand for the same period. However, the Authority has considered the information available before it for the purpose of both dumping & injury analysis in this Anti-dumping Investigation.

- viii. As regards the difference in import figures for the year 2013-14 as reported in safeguard findings and the petition filed with DGAD for the present investigation, it is submitted by the domestic industry that the data so used in the safeguard finding was DGCI&S published data whereas the data used by the domestic industry in the present investigation is transaction wise DGCI&S import data. Since, the sources of the figures stated in present petition and the safeguard finding is different, there is a little difference in the figures also. In this investigation, the Authority has relied on the transaction wise import statistics obtained from DGCI&S for the POI and preceding three years for the purpose of dumping and injury examination.

F. DETERMINATION OF NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN

19. 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):*

Provided that in the case of import of the article from a country other than the country of origin and where the article has been merely transhipped through the country of export or such article is not produced in the country of export or there is no comparable price in the country of export, the normal value shall be determined with reference to its price in the country of origin.

F.1 Submissions made by the Domestic Industry

20. Following submissions made by the domestic industry during the course of the present investigation :
- i. Normal value means the price of the subject goods in the domestic market of South Africa, Kazakhstan, Turkey and Russia. Efforts were made by the petitioners to get information/evidence of price of subject goods in the domestic market of the subject countries. However, the petitioner has not been able to get any information/evidence of price of subject goods in the domestic market of the subject countries.
 - ii. Petitioner has determined normal value in the subject countries on the basis of best estimates of cost of production in the subject countries, considering major raw materials prices as per DGCI&S published data and consumption norms of the petitioner and power prices as prevailing in the respective subject country
 - iii. None of the responding exporters have made any public claim that the dumping margin in their response is de minimus. This means a tacit acceptance of unfair dumping having been resorted to by these foreign producers
 - iv. The petitioner has relied upon the transaction wise import data procured from DGCI&S and secondary source, to assess the volume and value of subject imports in India.
 - v. Authority should determine dumping margin and consequently, price undercutting, and injury margin by considering comparison of weighted average normal value with individual export price as the export price differs significantly in terms of different purchasers and time periods as can be seen from the import statement. Further, all those transactions where the dumping margin, price undercutting and injury margin is negative are required to be excluded for the purpose of these determinations
 - vi. Petitioners are not privy to the actual evidence and therefore cannot be expected to provide the same for calculations of normal value. Petitioners have provided information for normal value based on best available information.

F.2 Submissions made by the other interested parties

21. The submissions made by the opposing interested parties are summarized below:
- i. With regard to the Normal value for Soda Sanayii A.S., Turkey, the exporter has submitted that the normal value should be calculated based on the cost or exports to third countries and not based on the Domestic Sales. Company submitted that the home market sales of PUC are not comparable with its export price to India for the purpose of determining normal value. Home market is a unique market and the sales to distributors/wholesalers are not comparable

with the Sales to Indian end-users and end-use of subject merchandise in Home Market is different than the end-use in India. The Indian customers are mostly saccharine producers while there are no saccharine producers in Turkey. In the home market the customers mostly purchase the subject merchandise to be used in paint that avoids wood corrosion. In the view of the same, Soda Sanayii A.S. has requested the Authority to consider cost or export price to third countries for the purpose of determining normal value.

- ii. The Soda Sanayii A.S. exports through an affiliated trader namely Şişecam Dış Ticaret A.Ş. (“ŞDT”). The trader exports the goods to India at the same price as that of Soda Sanayii A.S. and being paid a commission at a fixed percentage of the value.
- iii. Petitioner states that the export price from subject countries significantly differs in terms of customer and time period but this does not reflect how and to what extent the prices differ. Due to the lack of substantiation the comparison of the weighted average normal value with individual export price methodology be rejected and the same is incorrect on multiple accounts. The methodology of Zeroing as is claimed by the petitioner is inconsistent and in violation of the AD Rules.
- iv. Since, the exporters from Turkey and South Africa have responded, the normal value may be computed based on their submissions. Also, there is no requirement to claim de minimis dumping margin in the questionnaire response separately.
- v. Since exporters from South Africa and Turkey have responded, therefore, export price and dumping margin should be determined based on the information provided by them.

F.3 Examination by the Authority

22. 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);

23. The Authority sent questionnaires to the known exporters from the subject countries, advising them to provide information in the form and manner prescribed. However, barring the following producer and exporters, none of the other producers/exporters from subject countries co-operated in this investigation by filing the prescribed questionnaire responses
- (i) M/s Lanxess Cisa Pvt. Ltd.(producer) , South Africa
 - (ii) M/s Lanxess (Pty) Ltd (exporter), South Africa.
 - (iii) M/s Soda Sanayii A.S (producer),Turkey
 - (iv) M/s Sisecam Dis Ticaret A.S, Turkey.
24. Since the above mentioned producers/exporters have filed the questionnaire response, the Authority proposes to determine individual dumping margin in respect of these companies. The general methodology adopted by the Authority for determination of Normal Value for these exporters is to first examine whether the domestic sales of the subject goods by the responding exporters in their home markets were representative and viable for permitting determination of Normal Values on the basis of domestic selling prices and whether the ordinary course of trade test was satisfied as per the data provided by the respondents.
25. In the case of non-cooperating exporters in the subject countries, the Authority proposes to determine the normal value on the basis of facts available in terms of Rule 6 (8) of AD Rules read with Article 6.8 of the Agreement.

A) Normal Value

I. South Africa

a) Normal Value for M/s Lanxess Cisa Pvt. Ltd., South Africa

26. The response filed by them was examined. The Authority notes that the company has sold the subject goods in the domestic market, which is not representative to consider for determination of normal value. Even the request to consider the third country export for determination of normal value was not undertaken, since they have provided third country sales information for 30% of exports of subject goods. Since they have not provided complete information of all exports to third country and as per information filed, almost entire exports made to these third countries is at loss, in such situation , normal value cannot be determined based on these exports. The authority has, therefore, determined normal value on the basis of cost of production including SGA and reasonable profit. Accordingly, the normal value has been determined as *** **US\$/MT**

b) Normal Value for non-cooperating producers and exporters from South Africa

27. The Authority notes that no other producer/exporter from South Africa has responded to the Authority in the present investigation. For all the non-

cooperative producers/exporters in South Africa, the Authority has determined normal value as *** **US\$/MT** as facts available.

II. Turkey

a) Normal Value for M/s Soda Sanayii A.S, Turkey

28. The response filed by them was examined. The exporter has submitted that the domestic market is peculiar, and the prevailing domestic sales prices are not comparable to the export price to India and the same are inflated on account of end use of the product concern. As a result, the exporter has submitted that normal value may not to be calculated on the basis of domestic sales reported in Appendix 1 and shall be calculated either on the basis of cost or export sales to third countries.

29. The Authority examined the domestic sales and noted that the sales in the domestic market are made in the ordinary course of trade. There is no merit in the argument and also failed to provide evidence to demonstrate that why the price in domestic market should not be considered. The Authority has, therefore, decided to determine the normal value based on domestic sales of the exporter. To determine the normal value, the authority conducted the ordinary course of trade test to determine profit making domestic sales transactions with reference to cost of production of subject goods. If profit making transactions are more than 80% then the Authority considers all the transactions in the domestic market for the determination of the normal value and in cases, where profitable transactions are less than 80%, only profitable domestic sales are taken into consideration for the determination of normal value. In this case, based on the ordinary course of trade test, all domestic sales have been taken for determination of normal value, since the profitable sales were more than 80%., the exporter has claimed adjustments on inland freight and credit cost, which have been verified and allowed. Accordingly, the normal value has been determined as *** **US\$ /MT.**

b) Normal Value for other producers and exporters in Turkey

30. The Authority notes that no other producers/exporters from Turkey have responded to the Authority in the present investigation. For all the non-cooperative producers/exporters in Turkey, the Authority has determined the normal value as facts available as *** **US\$/MT.**

III. Kazakhstan

Normal Value for producers and exporters in Kazakhstan

31. None of the producers/exporters from Kazakhstan filed the response to questionnaire; therefore, the Authority treated them as non-cooperative. In view of non-cooperation from the producers/exporters from Kazakhstan, the Authority is not able to determine individual dumping margin for producers/exporters and is constrained to proceed with the principles of best available information with regard to determination of dumping margin. In view of non-cooperation of the exporters, the Authority determined normal value as per facts available in terms of Rule 6(8) of the Rules. Accordingly, Normal value has been determined as *** **US\$/MT.**

IV. Russia

32. None of the producers/exporters from Russia filed the response to questionnaire; therefore, the Authority treated them as non-cooperative. In view of non-cooperation from the producers/exporters from Russia, the Authority is not able to determine individual dumping margin for producers/exporters and is constrained to proceed with the principles of best available information with regard to determination of dumping margin. In view of non-cooperation of the exporters, the Authority determined normal value as per facts available in terms of Rule 6(8) of the Rules. Accordingly, Normal value has been determined as *** **US\$/MT.**

B) Determination of Export Price

i. South Africa

a) Export price for M/s Lanxess Cisa Pvt. Ltd with M/s Lanxess (Pty) Ltd, South Africa

33. M/s LANXESS (PTY) LTD has filed questionnaire response and during the POI, they have exported 5553 MT of the subject goods to India. They did not report any adjustment beyond ex-factory in Appendix 2, however, month wise adjustments have been reported and claimed in Appendix 3A. M/s LANXESS (PTY) LTD has claimed adjustments on account of Packing, Inland Freight, Cargo Dues, Overseas Freight, and Overseas Insurance. The same have been allowed, after due verification. Accordingly, the Authority has determined the Ex-factory export price as *** **US\$/MT.**

b) Export price for non-cooperating producers and exporters from South Africa

34. The Authority notes that since no other producers/exporters from South Africa have responded to the Authority in the present investigation. For all the non-

cooperative producers/exporters in South Africa, the Authority has determined the net export price as *** **US\$/MT** as facts available.

ii. Turkey

a. Export price for M/s Soda Sanayii A.S with M/s Sisecam Dis Ticaret A.S, Turkey

35. M/s Soda Sanayii A.S has filed questionnaire response and during the POI, they have exported 3240 MT of the subject goods to India. They claimed expenses on account of Inland Freight, Ocean Freight, Local expenses, Marine insurance, credit cost, bank charges, Forex gain and Commission to Indian exporter. The same have been allowed, after due verification except the forex gain since it was not substantiated. Accordingly, the Authority has determined the Ex-factory export price as *** **US\$/MT**.

b) Export price for non-cooperating producers and exporters from Turkey

36. The Authority notes that since no other producers/exporters from Turkey have responded to the Authority in the present investigation. For all the non-cooperative producers/exporters in Turkey, the Authority has determined the net export price as *** **US\$/MT** as facts available.

iii. Russia

Export Price for producers and exporters in Russia

37. The Authority notes that no producers/exporters from Russia have responded to the Authority in the present investigation. For all the non-cooperative producers/exporters in Russia, the Authority has determined the net export price as *** **US\$/MT** as facts available.

iv. Kazakhstan

Export Price for producers and exporters in Kazakhstan

38. None of the producers/exporters from Kazakhstan filed response to the questionnaire. Therefore, the Authority treated them as non-cooperative. In view of no cooperation from the producers/exporters from Kazakhstan, the Authority has determined net export price as per facts available in terms of Rule 6(8) of the Rules as *** **US\$/MT** as facts available.

C) Dumping Margin Table

39. The dumping margin during the POI for all exporters/producers from the respective subject countries have been determined as provided in the table below:

S. No	Country	Producer	Exporter	Normal Value – US\$/MT	Export price – US\$/MT	Dumping Margin – US\$/MT	Dumping Margin - %	Dumping Margin Range- %
1.	South Africa	M/s Lanxess Cisa Pvt. Ltd	M/s Lanxess (PTY) LTD	***	***	***	***	15-20
2.	South Africa	All Others	All Others	***	***	***	***	20-25
3.	Turkey	M/s Soda Sanayii A.S	M/s Sisecam Dis Ticaret A.S	***	***	***	***	70-75
4.	Turkey	All Others	All Others	***	***	***	***	80-85
5.	Russia	All	All	***	***	***	***	0-(5)
6.	Kazakhstan	All	All	***	***	***	***	20-25

G. METHODOLOGY FOR INJURY ASSESSMENT AND EXAMINATION OF INJURY AND CAUSAL LINK

Injury Examination

G.I Submissions made by the Domestic Industry

40. The following are the injury related submissions made by the domestic industry during the course of the present investigation:

- i. The exporters from more than one country are exporting the subject goods and hence as per the rules, the present case is fit for cumulative assessment. The dumping margins and the volumes of exports are more than the de-minimis limits prescribed. The subject goods directly compete with the like products offered by the domestic industry.
- ii. The demand for the PUC has increased throughout the injury period. Imports occupy a significant share of the Indian Demand. The imports declined from the base year till 2015-16 but increased in the period of investigation and remained above the base year levels showing an increase of 24% from the base year and 57% from previous year.
- iii. Imports from the subject countries occupy 98% of total import into the country. Figures pertaining to total imports and total demand differ for the reason that the DG safeguard used IBIS data, whereas the petitioner had provided DGCI&S data. Imports in relation to production declined till 2015-16 but surged in the period of investigation. Subject imports in relation to demand followed the same trend and remained around the same levels as compared to the base year.

- iv. The landed price of the dumped imports is significantly below the selling price of the domestic industry. The level of price undercutting from the subject countries have increased significantly in the POI resulting into significant increase in imports. Price undercutting should be determined only considering those import transactions whose landed price of imports is below the selling price of the domestic industry.
- v. The cost of production declined from the base year till 2015-16 but increased in the period of investigation. the selling price of the domestic industry also followed the same trend but the decline in prices was more than the decline in the costs; in the POI, whereas the costs increased, the selling price declined; selling price was below the cost of production in the period of investigation; the landed price of imports remained below the cost of production of the domestic industry and hence the imports were suppressing and depressing the domestic industry prices
- vi. The petitioner has a capacity of 70,000 MT for the product. However, in view of the dumping the petitioner had to close a plant in Bhilai which had a capacity of 16,000 MT. There was minimal production in 2013-14 and was not operational thereafter therefore the capacity of the plant in Bhilai has not been included in the injury information. The addition of the same would show greater decline in production, sales and utilization.
- vii. Production of domestic industry increased till 2015-16 but declined thereafter in the POI to levels below what was attained in 2014-15 and previous year. The capacity utilization as well as the domestic sales of the petitioner also show the same trend. Market share of the DI, including and excluding captive has declined while that of the subject imports has increased. Despite having enough capacity to cater the Indian Demand, the domestic industry has been losing its market share.
- viii. Performance in terms of price parameters has deteriorated. Profits remained low up to 2015-16. With the decline in import prices the DI was forced to sell below the cost of sales. Profit before tax and return on investment has declined throughout the injury period.
- ix. Inventories increased till 2015-16 but declined in the POI, as the domestic industry has reduced its prices in order to compete with dumped imports. Despite this the level of the inventories stayed at levels above 2013-14 and 2014-15.
- x. Employment and wages have increased in the injury period. Wages paid by the domestic industry has also increased but this is in line with the wage laws in the Country and the same does not reflect the adverse impact of dumping. Productivity of the domestic industry increased till 2015-16 but declined thereafter.
- xi. The overall growth of the domestic industry has also remained adverse. Despite the existence of demand and the ability to cater to that demand, the DI has not been able to do because of the dumped imports.
- xii. Growth in profitability was negative and the DI is suffering financial losses.

Efforts were made to improve sales and production and sales were made at prices much below the levels of cost of sales, even then the volume parameters could not take off. The current state of affairs of the DI do not allow for fresh investments.

- xiii. The focus was and still is on the product concerned but only to survive the petitioner was forced to export the subject goods. The domestic industry had significant capacities left unutilized even after utilizing capacity for downstream products.
- xiv. Information on captive consumption in terms of volume and value has been provided to assess the impact of dumped imports on the domestic industry.
- xv. The subject imports declined from 2013-14 till 2015-16, the domestic industry witnessed an increase in sales. When imports of subject goods increased in POI the sales of DI declined. Imports increased by 57% in the POI as compared to previous year and sales of the domestic industry declined by 23% consequently leading to a decline in market share by 26%.
- xvi. Fall in sales of exports of the domestic industry are entirely immaterial as they are not the basis of the injury for the current investigation and the data provided is on the basis of the injury caused to the domestic industry as a result of low priced imports.
- xvii. Petitioner is using imported ore as well as procuring Ore from Orissa Mining Corporation, depending on commercial terms and not just one source of ore is being used. Increase in chrome ore prices holds good for all the producers across the globe and is not a factor relevant only for the domestic industry.
- xviii. The present case is a clear situation where the exporter is dumping the goods into the country at a significant rate and is trying to cover up for the dumping being practiced with the argument on "ordinary course of trade" as none of the situations to prove otherwise exist.
- xix. Imports were at high level and even in 2013-14 because of which Kanakdurga was forced to shut its production in 2014.
- xx. Safeguard petition cannot be a benchmark for non-imposition of duty in the current investigations as the period considered is different. Injury assessment is to be done on an 'as is' basis and based on current data and definitely based on the data of previous injury period. Further, the scheme and scope of antidumping and safeguard law are different.
- xxi. Petitioner has been forced to captively consume the products in view of lack of favourable domestic market due to dumped imports. Because of the high volumes of imports the production of the domestic industry declined and remained low. Domestic sales declined in the POI after increasing till 2015-16. Even after exports and captive consumption, capacity with the DI remained unutilised.
- xxii. There is no correlation between declining sales and demonetisation. Injury is because of increase in imports in the POI with decline in import prices, while the costs increased.
- xxiii. Imposition of duty is not against public interest. Reference made to safeguard

investigation is incorrect. Unlike safeguard law, anti-dumping law does not impose duty on all imports. The consumers will be able to source the subject goods from undumped sources without payment of antidumping duty. Even though petitioner is a major producer, it will have to compete with the subject goods coming from undumped sources and therefore cannot abuse its position.

- xxiv. The other known factors viz. export performance, technology, performance of the other products of the company, trade restrictive practices listed in the anti-dumping agreement or in the Rules have not caused injury to the domestic industry.
- xxv. The price suppression/depression effect of dumped imports from subject countries has resulted in significant financial losses to the domestic industry. Significant financial losses have led to deterioration in return on capital employed and cash profits;
- xxvi. Market share of the imports from subject countries remained at a very significant level. The domestic industry could not achieve the optimum levels of production, capacity utilization and sales volumes due to dumped imports.

G.II Submissions made by the other interested parties

41. The following are the injury related submissions made by the other interested parties during the course of the present investigation ;

- i. The petitioner's data on captive consumption and the actual capacity available may be verified. Actual figure of demand including captive consumption should be disclosed.
- ii. DI has not provided any explanation with regard to difference in figures in the DG safeguard findings and as stated in the petition concerning production of domestic industry, sales of the domestic industry, sales of the other producers and more importantly profit of the of the domestic industry.
- iii. Exclusion of imports where the domestic industry would have experienced price overcutting over imports is not permitted and is not consistent with Article 3.2 of the Antidumping Agreement. Price undercutting is not alone determinative in an injury determination; rather, it forms part of the overall assessment of injury to the domestic industry and is conducted so as to provide guidance to the investigating authorities in the context of its assessment of injury and causation.
- iv. With regard to the claims of the DI on the exclusion of those transactions which are not injurious for determination of injury margins it is a consistent practice of the Designated Authority to take all import transactions from a country into account for determination of injury margin. It does not suffice to say such a practice is not challenged in the WTO and hence should be adopted. AD duty can be levied on the injury margin if it is lower than the dumping margin. And in case the claim of the DI is accepted it would imply

that there can be no cases where the injury margin is negative and would result in no cases with negative injury margin and no termination of investigation.

- v. There is an increase in imports due to the increase in demand yet the same did not result in a noticeable increase in market share. It cannot be said that there has been a 'significant' increase in imports.
- vi. There is no connection between decline in profits and dumped imports. The imports have not hurt the sales of the domestic industry, rather the sales of the domestic industry have increased.
- vii. No relationship between price undercutting and the profit/loss incurred. Even when the imports were undercutting the prices, the domestic industry was earning profits. Market share of the domestic industry also increased. However, currency devaluation is the major cause of injury. Volatile prices of chrome ore are also a cause of injury.
- viii. Imports from Kazakhstan do not require cumulative assessment as the product from Kazakhstan is different from that offered by the domestic industry.
- ix. The production capacity, utilization, total share in production as well as total Indian production has also increased. Production levels were above the demand. There has been an increase in sales volumes.
- x. Employment and wages have also increased despite the claim of decreased profitability which clearly shows mismanagement.
- xi. Market share of the petitioners has increased. The ROI declined because of the anticipatory increase in capacity and employment.
- xii. Indexes for productivity increased from 100 in 2012-13 to 164 in 2015-16 and 138 in 2016-17. The indexed data for stocks declined from 100 in 2013-14 to 86 in 2016-17 and hence shows no injury. The exports of the company declined which is the actual cause of injury and it should not be attributed to imports.
- xiii. It was submitted on behalf of Kanakadurga that it was forced to shut down in 2014 due to increases in the subject imports. However, between 2013-14 and 2014-15, imports of the PUC actually decreased, and the market share of the domestic industry increased.
- xiv. No causal link was established between injury and dumping as per previously decided safeguards petition
- xv. The sales of the petitioner declined because of the drastic decline in the exports of the petitioner due to increase in captive consumption of the domestic industry.
- xvi. Injury margin has been calculated by considering only those transactions that are below the non-injurious price. In India, the weighted average to weighted average comparison is used to calculate injury margin which would include all transactions. The Petitioner has mistaken injury determination with injury margin calculation. Exclusion of imports where the domestic industry would

have experienced price overcutting over imports is not permitted and is not consistent with Article 3.2 of the Antidumping Agreement.

- xvii. Selling price was above cost of production and domestic industry made profit till the year 2015-16 on the sale of sodium dichromate as well. Cost of production and selling price has increased commensurately in the POI. Decline in profit of PUC as claimed by the DI is unreliable.
- xviii. Public interest needs to be examined as this would lead to the petitioner being the only player in the market and higher costs of the product. Issue of public interest was analysed in the safeguard finding also and may be computed on the basis of the lesser duty rule.
- xix. DI has failed to provide actual data regarding captive consumption of sodium dichromate as distinguished from data relating to the merchant market. The distinction between the two is relevant because production destined for captive use is not exposed to direct competition from imports.
- xx. It is not possible that profits on dichromate declined by 82% in 2015-16 as compared to previous year and that the profit on derivatives increase during the same time. The imports also declined in the same period and so they could not be a cause of injury.
- xxi. Vishnu chemicals reported losses in the year 2013-14 for the PUC as per the information submitted to DG Safeguards and disclosed in the final findings. However, in the petition Vishnu chemicals is showing profit for the year 2013-14 for the PUC.
- xxii. Distinction between captive and merchant market is relevant for injury analysis because production (by domestic industry) destined for captive use are not exposed to direct competition from imports. The domestic industry has failed to provide actual data regarding captive consumption of sodium dichromate as distinguished from data relating to the merchant market.
- xxiii. Production and sale of sodium dichromate is regulated as per the consent order issued by state pollution control board. The consent order provides for installed capacity of several products for Vishnu Chemicals as below:

Name of the product	Capacity
Sodium Dichromate	210 tons/day
Basic chromium sulphate	180 tons/day
Chromic acid	40 tons/day

- xxiv. Basic chromium sulphate and Chromic acid are derivatives of sodium dichromate. 0.5 MT of sodium dichromate gives 1 MT of Basic chromium sulphate (BCS). 1.65 MT sodium dichromate gives 1 MT of chromic acid. Thus, 90 MT per day of sodium dichromate will be used in producing 180

MT of BCS per day and 66 MT per day of sodium dichromate will be used in producing 40 MT of chromic acid per day. Accordingly, 156 MT of sodium dichromate per day will be required for captive consumption.

- xxv. Sodium dichromate available for merchant market is only 54 MT per day (i.e. 210 MT per day – 156 MT per day). Total capacity for merchant market is 17,820 MT approximately (i.e. 54 MT * 330 days). If Vishnu Chemicals operates at 80% capacity utilization, it would be able to produce 14,256 MT of sodium dichromate which would be available for merchant market.
- xxvi. Total domestic sales in the merchant market during the POI were 13,853 MT. Thus, there is no further scope to increase its domestic sales of sodium dichromate to meet the total domestic demand.
- xxvii. Vishnu chemical has monopoly in production and sale of sodium dichromate in the domestic market. Imposition of duty on import of sodium dichromate will make imports unviable for the downstream industry. The downstream industry will have no choice but to purchase sodium dichromate from the monopolistic supplier who is also a competitor. This would give undue advantage to one large scale domestic producer at the cost of several small scale industries.
- xxviii. Sodium dichromate is used in wide variety of industry and applications including metal finishing industries, anti-corrosive applications, water treatment chemicals, pigments, paints, chromium chemicals, pharmaceuticals (ibuprofen), textiles (mordant for acidic dyes) etc. Thus, anti-dumping duty will impact wide variety of downstream industries.

G.III Examination by the Authority

- 42. The Authority has taken note of the submissions made by the interested parties and examined the various parameters in accordance with the Anti-dumping Rules and considered the submissions made by the interested parties.

H. Cumulative Assessment

- 43. Para (iii) of Annexure II of the Anti-dumping Rules provide that in case where imports of a product from more than one country are being simultaneously subjected to anti-dumping investigations, the Authority will cumulatively assess the effect of such imports, in case it determines that:
 - a) the margin of dumping established in relation to the imports from each country is more than two percent expressed as percentage of export price and the volume of the imports from each country is three percent (or more) of the import of like article or where the export of individual countries is less than three percent, the imports collectively account for more than seven percent of the import of like article and

- b) Cumulative assessment of the effect of imports is appropriate in the light of the conditions of competition between the imported article and the like domestic articles

44. The Authority notes that:

- a) The subject goods are being dumped into India from subject countries. The margins of dumping from each of the subject countries are more than the de minimis limits prescribed under the Rules.
- b) In view of the de-minimis dumping margin from Russia, AD investigation against them has been terminated. Therefore, the subject countries in this investigation now constitute only South Africa, Kazakhstan and Turkey. Accordingly, volume of imports from these subject countries have been taken for the purpose of injury analysis.
- c) The volume of imports from each of the subject countries is individually more than 3% of total volume of imports.
- d) Cumulative assessment of the effects of imports is appropriate as the exports from the subject countries not only directly compete inter se but also with the like articles offered by the domestic industry in the Indian market.

45. In view of the above, the Authority considers that it would be appropriate to assess injury to the domestic industry cumulatively from exports of the subject goods from the subject countries.

46. 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 depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. 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 Anti-dumping Rules.

47. The submissions made by the domestic industry and other interested parties during the course of investigations with regard to injury and causal link and considered relevant by the Authority are examined and addressed as below.

I. Volume Effect of Dumped Imports on the Domestic Industry

(a) Assessment of Demand/Apparent Consumption

48. The Authority has taken into consideration, for the purpose of the present investigation, demand or apparent consumption of the product in India as the sum of domestic sales of the Indian Producers and imports from all sources. The demand so assessed shows increase throughout the injury period, as is given in the table below. The demand has increased throughout the investigation period as compared to the base year.

Particulars	Unit	2013-14	2014-15	2015-16	2016-17
Demand-Excluding Captive Consumption					
Domestic industry sales	MT	10,822	13,972	17,938	13,853
Other producers sales	MT	8,500	8,500	8,500	8,500
Subject imports	MT	6,046	5,507	4,869	11,360
Other imports	MT	6,565	4,924	4,809	5,044
Demand/consumption	MT	31,933	32,904	36,143	38,758
Demand-Including Captive Consumption					
Domestic industry sales	MT	10,822	13,972	17,938	13,853
Captive Consumption	MT	18,447	24,097	26,582	25,740
Other producers sales	MT	8,500	8,500	8,500	8,500
Subject imports	MT	6,046	5,507	4,869	11,360
Other imports	MT	6,565	4,924	4,809	5,044
Demand/consumption	MT	50,380	57,001	62,725	64,497

(b) Import Volumes from subject countries

49. With regard to the volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in imports from subject countries, either in absolute terms or relative to production or consumption in India. It is noted that the product under consideration imported from Kazakhstan, Russia and Turkey are in anhydrous form whereas the imports from South Africa and the goods produced by the domestic industry is of dehydrate form. The volume of imports of anhydrous form of subject goods have been converted into the volume in di-hydrate form taking into account the standard moisture content in each of the forms. Accordingly, the volume of imports of the subject goods in dihydrate form from the subject countries has been analyzed as under:

Particulars	Unit	2013-14	2014-15	2015-16	2016-17
Kazakhstan	MT	2,477	886	909	2,909
S. Africa	MT	3,000	4,144	2,418	5,224
Turkey	MT	568	477	1,568	3,227

Subject countries	MT	6,046	5,507	4,869	11,360
Other Countries	MT	6,565	4,924	4,809	5,044
Total Imports	MT	12,611	10,432	9,705	16,405

50. It is seen that imports of the subject goods from the subject countries in absolute terms have increased during the POI. The imports from the subject countries have shown significant increase during the period of investigation as compared to the previous year. The imports showed a decline from 2014-15 till 2015-16 but increased significantly in the period of investigation. However, Domestic industry had submitted that the decline in volume of imports during 2014-15 and 2015-16 was mainly due to the apprehension of imposition of safeguard duties pursuant to the safeguard investigation.

(c) Subject Country Imports in relative terms

Particular	Unit	2013-14	2014-15	2015-16	POI
Subject Country Import in relation to Production	%	20.77	14.11	10.72	29.41
Subject Country Import in relation to Demand (With Captive)	%	12	9.66	7.80	17.61
Subject Country Import in relation to Demand (Excluding Captive)	%	32.77	22.86	18.42	44.14

51. It is seen that the subject imports in relation to production declined till 2015-16 but increased in the POI. The subject imports in relation to demand also dropped till 2015-16 in both captive and without captive but increased sharply in the POI.

(d) Share of subject imports in total imports

Particular	Unit	2013-14	2014-15	2015-16	POI
Kazakhstan	%	19.64	8.50	9.37	17.73
S. Africa	%	23.79	39.72	24.92	31.84
Turkey	%	4.51	4.58	16.16	19.67
Subject countries	%	47.94	52.80	50.44	69.25
Other Countries	%	52.06	47.20	49.56	30.75

52. It is seen that the share of dumped imports from subject countries in imports of the product under consideration in India is around 69.25% of the total imports into the country.

(e) Market Share in Demand

53. Considering imports from various sources and sales of the domestic industry, market share of subject imports in demand in India was examined. The Authority notes that the market share of the subject imports decreased till 2015-16 but increased significantly in the POI whereas market share of the domestic industry increased till 2015-16 and declined steeply thereafter in the POI. .

Particular	Unit	2013-14	2014-15	2015-16	POI
Domestic industry (without captive)	%	33.89	42.46	49.63	35.74
Other Indian Producers	%	26.62	25.83	23.52	21.93
Subject imports	%	18.93	16.74	13.54	29.31
Other imports	%	20.56	14.97	13.31	13.02
Total	%	100.00	100.00	100.00	100.00
Domestic industry(with Captive)	%	58.10	66.79	70.98	61.39
Other Indian Producers	%	16.87	14.91	13.55	13.18
Subject imports	%	12	9.66	7.80	17.61
Other imports	%	13.03	8.64	7.67	7.82
Total	%	100.00	100.00	100.00	100.0

J. Price Effect of Dumped Imports on the Domestic Industry

54. With regard to the effect of the dumped imports on prices, it is required to be analyzed whether there has been a significant price undercutting by the alleged dumped imports as compared to the price of the like products in India, or whether the effect of such imports is otherwise to depress prices or prevent price increases, which otherwise would have occurred in the normal course. The impact on the prices of the domestic industry on account of the dumped imports from subject countries has been examined with reference to the price undercutting, price underselling, price suppression and price depression, if any. 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 weighted average landed cost of imports of the subject goods from the subject countries.

a) Price Undercutting

55. For the purpose of price undercutting analysis the net selling price of the domestic industry has been compared with the landed value of imports from the subject countries. While computing the net selling price of the domestic industry all taxes, rebates, discounts and commissions have been deducted and sales realization at ex works level is determined for comparison with the

landed value of the dumped imports. Accordingly the undercutting effects of the dumped imports from the subject countries work out as follows:

Particulars	Unit	Kazakhstan	Russia	South Africa	Turkey	Subject Countries
Landed Value	Rs./MT	72,896	74,310	78,898	73,124	75,305
Net Sales realization	Rs./Kg	***	***	***	***	***
Price Undercutting	Rs./Kg	***	***	***	***	***
Price Undercutting	%	***	***	***	***	***
Price Undercutting	Range	15-20	10-15	5-10	15-20	10-15

S.No.	Country	Producer	Exporter	Landed Value (Rs/MT)	Selling Price (Rs/MT)	Price Undercutting (Rs/MT)	Price Undercutting %	Range
1.	South Africa	M/s Lanxess Cisa Pvt. Ltd	M/s Lanxess (PTY) LTD	***	***	***	*** M/s Lanxess	10-15 (PTY) LTD
2.	Turkey	M/s Soda Sayani A.S	M/s Sisecam Dis Ticaret A.S	***	***	***	***	15-20

56. Price undercutting from the subject countries in POI are positive.

b) Price Suppression and Depression

57. In order to determine whether the dumped imports are suppressing or depressing the domestic prices and whether the effect of such imports is to suppress prices to a significant degree or prevent price increases which otherwise would have occurred in normal course, the changes in the costs and prices over the injury period, were compared as below:

Particulars	Unit	2013-14	2014-15	2015-16	POI
Cost of production	Rs/MT	***	***	***	***
Trend		100	90	88	95

Selling price	Rs/MT	***	***	***	***
Trend		100	93	87	92
Landed Value	Rs./MT	***	***	***	***
Trend		100	94	89	82

58. From the above, it is noted that both selling price as well as cost of production of the domestic industry has declined in POI as compared to the base year. The selling price in POI is below the level of cost of production. It is also noted that the landed price of imports in POI declined significantly as compared to the decline in costs in POI as compared to base year. Thus, imports are not only depressing but also suppressing the prices of the domestic industry.

c) Price Underselling

59. The non-injurious price (NIP) of the domestic industry has been determined and compared with the landed value of the subject goods to arrive at the extent of price underselling. The NIP of the product under consideration has been determined by adopting the verified information/data relating to the cost of production for the period of investigation on the basis of principles mentioned in Annexure III of the Rules. The NIP has been determined considering optimum level of capacity utilisation that the petitioner can achieve in the plant. Further, the actual level of raw materials and utilities consumption has been considered taken as optimum norms for the product of the domestic industry. The analysis shows that during the period of investigation, the landed value of subject imports were above the non-injurious price of the domestic industry, as can be seen from the table below, demonstrating negative price underselling effect:

<u>S.No</u>	<u>Country</u>	<u>Producer</u>	<u>Exporter</u>	<u>Landed Value (Rs/MT)</u>	<u>NIP (Rs/MT)</u>	<u>Injury Margin (Rs/MT)</u>	<u>Injury Margin %</u>	<u>Range</u>
1.	South Africa	M/s Lanxess Cisa Pvt. Ltd	M/s Lanxess (PTY) LTD	***	***	***	***	(10-15)
2.	Turkey	M/s Soda Sayani A.S	M/s Sisecam Dis Ticaret A.S	***	***	***	***	(5-10)
3.	South Africa	All Others	All Others	***	***	***	***	(5-10)
4.	Turkey	All Others	All Others	***	***	***	***	0-(5)

<u>S.No</u>	<u>Country</u>	<u>Producer</u>	<u>Exporter</u>	<u>Landed Value (Rs/MT)</u>	<u>NIP (Rs/MT)</u>	<u>Injury Margin (Rs/MT)</u>	<u>Injury Margin %</u>	<u>Range</u>
5.	Russia	All	All	***	***	***	***	(5-10)
6.	Kazakhstan	All	All	***	***	***	***	(5-10)

60. It is noted that the landed prices of the imports from the subject countries are much above the Non-Injurious prices of the domestic industry thereby resulting in negative price underselling.

K. Economic Parameters of the Domestic Industry

61. Annexure II to the Anti-dumping Rules requires that the 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 Anti-dumping 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 Authority has examined the injury parameters objectively taking into account various facts and arguments made by the interested parties in their submissions.

(a) Production, Capacity, Capacity Utilization and Sales

63. Capacity, production, capacity utilization and sales of the domestic industry over the injury period is given in the following table:-

Particulars	Unit	2013-14	2014-15	2015-16	POI
Plant capacity	MT	39,960	39,960	39,960	63360
Production	MT	29,105	39,029	45,675	38,624
Captive Consumption	MT	18,447	24,097	26,582	25,740
Capacity Utilization	%	73%	98%	114%	60.96%

Captive Consumption to total Production	%	66.38%	61.74%	58.19%	66.64%
Sales	MT	10,822	13,972	17,938	13,853
Sales to total Production	%	37.18%	35.80%	39.27%	35.86%

(capacity @120MTPD till 19.06.2016 and @210MTPD from 20.06.2016, for 333 operating days in a year)

64. It is noted that:

- a) Vishnu chemicals has claimed actual installed capacity of 70,000 MT per annum (210 MT per day). In addition to this there was additional capacity of 16000 MT in Bhilai plant (Chhattisgarh). But domestic industry has informed that there was no production in Bhilai plant since 2015-16. Therefore, this plant has not been considered for NIP workings. Andhra Pradesh Pollution Control Board (APPCB) vide their order No. 7301/PCB/ZO-Vsp/Tech/2012 -58 dated 23/04/2012 had given the consent to Vishnu Chemicals to produce 120 MTPD only of Sodium Dichromate. Considering the 333 working days in a year capacity for Sodium Dichromate works out to 39960 MT Per Annum. This capacity was revised to 210 MT of Sodium Dichromate per day by the APPCB vide consent order dated 20/06/2016. Based on the above the Authority has considered the enhanced capacity for Sodium Dichromate w.e.f 20.06.2016.
- b) The production of the domestic industry increased from the base year till 2015-16 and declined during the POI. Capacity utilisation also follows the same trend. Interested parties have argued that the focus of the domestic industry is on downstream products. Further it is seen that the captive consumption has increased over the injury period and captive consumption was 66.64% during POI. Domestic Industry has submitted that despite the inclusion of captive consumption, they are not able to utilize its full potential and achieve the desired capacity utilization levels. However, the authority finds that the capacity utilization was restricted due to restriction imposed by APPCB.
- c) Since the company could only produce within the production ceiling recommended by the APPCB, the installed capacity considered by DGAD for NIP working is 39,960 MT per annum up to 20.06.2016 and about 70,000MT per annum thereafter.
- d) The domestic sales of the petitioner have not followed the same trend as that of the production. Increase in production during injury period has not resulted into increase in domestic sales in the same ratio. It is seen that while there was a decline in imports, the sales of the domestic industry increased and when the subject imports increased in the period of investigation, the domestic sales again declined to below 2014-15 levels. It is noted that the domestic sales have

remained low throughout the injury period.

(b) Profitability, return on investment and cash profits

65. Vishnu chemicals reported losses in the year 2013-14 for the PUC as per the DG Safeguards final findings. However, in the present ADD petition Vishnu chemicals showing profit for the year 2013-14 for the PUC. Petitioner has stated that in the safeguard petition information was provided considering the expenses as whole including the Bhilai plant whereas in the present petition profitability of Vizag plant for PUC has been claimed by the domestic industry.

66. Profitability, return on investment and cash profits of the domestic industry over the injury period is given in the table below:-

Particulars	Unit	2013-14	2014-15	2015-16	POI
Profit/loss - Domestic	Rs.Lacs	***	***	***	***
Indexed		100	394	37	(193)
Cash Profit	Rs.Lacs	***	***	***	***
Indexed		100	165	101	47
ROCE	%	***	***	***	***
Indexed		100	149	117	45

67. Following is noted from the table above:

- a) Subject imports increased in the POI at significantly low price and in a bid to compete with such imports, the domestic industry was forced to reduce its selling price in order to match which went below the levels of cost of sales in the POI and hence, the domestic industry suffered losses.
- b) The cash profits increased in 2014-15 but declined in 2015-16 and further declined in the POI. The same trend can be seen for the return on capital employed which increased till 2014-15 but showed a downward trend from the 2015-16 and declined further in the POI to levels much below those achieved in the base year.

(c) Market Share in Demand

68. Market share of the domestic industry in demand for the product under

consideration is given in the table below:

Particular	Unit	2013-14	2014-15	2015-16	POI
Domestic industry (without captive)	%	33.89	42.46	49.63	35.74
Other Indian Producers	%	26.62	25.83	23.52	21.93
Subject imports	%	38.36	30.90	26.74	41.55
Other imports	%	1.14	0.80	0.11	0.77
Total	%	100.00	100.00	100.00	100.00
Domestic industry(with Captive)	%	58.10	66.79	70.98	61.39
Other Indian Producers	%	16.87	14.91	13.55	13.18
Subject imports	%	24.31	17.84	15.41	24.97
Other imports	%	0.72	0.46	0.06	0.47
Total	%	100.00	100.00	100.00	100.00

69. It is seen that market share of the domestic industry increased till 2015-16 when the import volumes were on a decline but declined in the POI when the subject imports increased.

(d) Employment, productivity and wages

70. Employment, productivity and wages over the injury period is given in the table below.

Particulars	Unit	2013-14	2014-15	2015-16	POI
Employment	Nos	***	***	***	***
Indexed		100	111	115	115
Wages	Rs. Lacs	***	***	***	***
Indexed		100	154	163	160
Productivity per day	MT	***	***	***	***
Indexed		100	134	157	133
Productivity per employee	MT	***	***	***	***
Indexed		100	121	136	115

71. It is noted that the employment level have increased over the injury period and wages paid have also increased.
72. Productivity per day and productivity per employee, both, increased till 2015-16 and declined in the POI in consonance with the movement of the production of the domestic industry.

(e) Inventories

73. Inventory position with the domestic industry over the injury period is given in the table below:

Particulars	Unit	2013-14	2014-15	2015-16	POI
Opening	MT	***	***	***	***
Indexed		100	168	123	186
Closing	MT	***	***	***	***
Indexed		100	182	275	98
Average	MT	***	***	***	***
Indexed		100	114	185	151

74. It is noted that the inventories with the domestic industry increased till 2015-16 but declined thereafter. However, the level of inventory remains significant.

(f) Growth

75. Growth of the domestic industry with regard to profits, return on investments, production, capacity utilisation and cash flow has been negative.

SN	Growth	Unit	2013-14	2014-15	2015-16	2016-17
1	Production	%		34%	17%	-15%
2	Domestic Sales Volume	%		29%	28%	-23%
3	Capacity Utilization	%		25%	16%	-53%
4	Selling price domestic	%		-7%	-6%	6%
5	Profitability	%		205%	-93%	-768%
6	Cash Profit	%		65%	-39%	-54%
7	Return on capital employed	%		1%	-1%	-2%

(g) Ability to Raise Capital Investments

76. Domestic Industry claimed that the current state of its financial position does not allow them to raise capital for fresh investment.

(h) Factors affecting domestic prices

77. The demand for the product has seen a steady growth throughout the investigation period and the only factors which seem to be affecting the domestic prices are the costs of production and import prices.

(i) Magnitude of dumping margin

78. The dumping margin from the subject countries are not only more than de-minims but also substantial, except in case of Russia where the dumping margin is de-minims.

L. MAGNITUDE OF INJURY AND INJURY MARGIN

79. The Authority has determined Non Injurious Price for the domestic industry on the basis of principles laid down in anti-dumping Rules read with Annexure III, as amended. The NIP of the product under consideration has been determined by adopting the verified information/data relating to the cost of production for the period of investigation. The NIP of the domestic industry has been worked out and it has been considered for comparing the landed price from each of the subject countries for calculating injury margin. For determining NIP, the best utilisation of the raw materials by the domestic industry over the injury period has been considered. The same treatment has been done with the utilities. The best utilisation of production capacity over the injury period has been considered. The production in POI has been calculated considering the best capacity utilisation and the same production has been considered for arriving per unit fixed cost. It is ensured that no extraordinary or non-recurring expenses were charged to the cost of production. A reasonable return (pre-tax @ 22%) on average capital employed (i.e. Average Net Fixed Assets plus Average Working Capital) for the product under consideration was allowed as pre-tax profit to arrive at the NIP as prescribed in Annexure-III and being followed. The non-injurious price so determined has been compared with the landed prices of imports from the subject countries to determine the injury margin as follows;

<u>S.No</u>	<u>Country</u>	<u>Producer</u>	<u>Exporter</u>	<u>Landed Value (Rs/MT)</u>	<u>NIP (Rs/MT)</u>	<u>Injury Margin (Rs/MT)</u>	<u>Injury Margin %</u>	<u>Range</u>
1.	South Africa	M/s Lanxess Cisa Pvt. Ltd	M/s Lanxess (PTY) LTD	***	***	***	***	(10-15)

<u>S.No</u>	<u>Country</u>	<u>Producer</u>	<u>Exporter</u>	<u>Landed Value (Rs/MT)</u>	<u>NIP (Rs/MT)</u>	<u>Injury Margin (Rs/MT)</u>	<u>Injury Margin %</u>	<u>Range</u>
2.	South Africa	All Others	All Others	***	***	***	***	(5-10)
3.	Turkey	M/s Soda Sayani A.S	M/s Sisecam Dis Ticaret A.S	***	***	***	***	(5-10)
4.	Turkey	All Others	All Others	***	***	***	***	0-(5)
5.	Russia	All	All	***	***	***	***	(5-10)
6.	Kazakhstan	All	All	***	***	***	***	(5-10)

It is noted that the landed prices of the imports from the subject countries are much above the Non-Injurious prices of the domestic industry thereby resulting in negative injury margin.

M. Causal Link and other factors

80. Having examined the existence of material injury, volume and price effects of dumped imports on the prices of the domestic industry, in terms of its price underselling and price suppression, and depression effects, other indicative parameters listed under the Indian Rules and Agreement on Anti-Dumping have been examined to see whether any other factor, other than the dumped imports could have contributed to injury to the domestic industry. Accordingly, the following parameters have been examined:

- i. **Volume and value of imports from countries other than the Subject Countries-** Imports from countries other than the subject countries are not causing injury as either the volume is de-minimis or the price is higher.
- ii. **Contraction of demand or Changes in the pattern of consumption-** The Authority notes that despite increased demand for the subject goods in the country, the domestic industry has faced with unutilized capacity during the POI. There is no change in the pattern of consumption of the subject goods which would have adversely impacted the domestic industry. Possible contraction of demand or changes in the pattern of consumption could not have caused injury to the domestic industry.
- iii. **Development in Technology-** None of the interested parties has furnished any evidence to demonstrate significant changes in technology that could have caused injury to the domestic industry. The petitioner set up a plant for production of the PUC and there is no evidence that the technology adopted by the petitioner could be a cause of injury to the

domestic industry.

- iv. **Trade restrictive practices and competition supply from various sources**- The Authority notes that the subject goods are not subjected to any trade restrictive practices in India. Moreover, apart from the competition that is obvious in any market economy, no inter se competition or competition between supplies from various domestic and international sources exhibit any such impact that could be construed as injurious to the domestic industry.
- v. **Export performance**- The domestic industry does not have significant exports of subject goods. However, the performance of the domestic industry has been segregated for domestic and export market. Therefore, any possible decline in export performance may not be a cause of injury claimed by the domestic industry.

N. Factors establishing causal link:-

81. Analysis of the performance of the domestic industry over the injury period shows that the causal link between dumped imports and the injury to the domestic industry is not established on the following grounds-
 - a.) Net Sales Realization of the domestic industry is higher than the Non Injurious Price of the domestic industry.
 - b.) The Selling price of the domestic industry is higher than the landed value of imports from the subject countries.
 - c.) The landed value from subject countries is higher than the non-injurious price of the domestic industry.

O. POST DISCLOSURE STATEMENT SUBMISSIONS BY THE INTERESTED PARTIES

82. The post disclosure submissions have been received from the interested parties. Majority of the issues raised therein have already been raised earlier during the investigation and have been addressed appropriately at appropriate places. Additional submissions have been analysed as under:

O.I Submissions by Domestic Industry

83. The submissions made by the domestic industry post-disclosure and considered relevant by the Authority are as follows:

- a) The domestic industry has requested the Authority to disclose the non-confidential version of the verification report of the exporters/producers from subject countries to enable domestic industry to offer meaningful comments on the dumping. Domestic industry has also requested to provide the copy of the Communications sent by the Authority and copy the replies filed by the interested parties.
- b) The domestic industry had stated about the implementation of an adjustment plan which would have led to an increase in production and capacity utilization and a reduction in overheads cost leading to further decline in cost. The same was proposed at the time of the safeguard investigation. However, the safeguard duties were not imposed and despite not having been provided a level playing field through imposition of the safeguard duties, the domestic industry, while continuing to suffer injury, still made efforts for the implementation of the adjustment plan. The domestic industry has installed CO₂ acidification plant and the same has gone through a trial run. Since the adjustment plan is a two stage process, the second stage of the process viz the installation of CO₂ recovery plant is yet to be taken up and it is expected to be taken up in about 2 years. Under the AD Rules, the Authority is required to consider the domestic industry as it exists and examine whether the performance of the domestic industry has deteriorated over the injury period due to dumped imports from specific sources as against all imports of the subject goods from all sources under safeguard duty investigation.
- c) The capacity has been considered by the Designated Authority on the basis of the APPCB order No. 7301/PCB/ZO-Vsp/Tech/2012 -58 dated 23/04/2012. However, the subsequent clarification provided by APPCB vide Letter no 1475//PCB/RO-VSP/2014-3628 dated 23/07/2014 has not been appropriately considered. The domestic industry has requested that the total capacity (both captive and merchant sales) of the domestic industry be considered as 70,000 MT during the entire injury period including POI. The domestic industry has also stated that the net fixed assets of the Vizag SDC plant are showing a reduction (due to charging of depreciation) and not increase. This further shows that there is no capacity addition. The APPCB has merely clarified the capacities that can be used for merchant sales and captive consumption for another downstream product.
- d) The disclosure statement considers incorrect figures for the capacity of the petitioner for the period from 2013-14 to 2015-16 and the domestic industry has made submissions vide letter dated 28th May, 2018 with regard to capacity of the plant that should be considered for the present purposes. The capacity reported vide PCB certificate No. 7301/PCB/ZO-Vsp/Tech/2012 -58 dated 23/04/2012 excluded capacity required for captive consumption whereas the PCB order dated 20/06/2016 reports the capacity including captive requirements. The PCB certificate dated 23/04/2012 which showed capacities excluding captive consumption, the PCB certificate was since then clarified vide document dated 23rd July 2014, wherein it was clarified that the domestic industry has a manufacturing capacity of 210 MTPD but a saleable quantity of the concerned product to the tune of 120 MTPD which makes the capacity to produce subject goods as 70,000 MT (including for captive consumption). The said clarification was filed by the petitioner vide our letter dated 22nd May 2018 which has been completely ignored. Evidently, the capacity of 120 MT mentioned in the said letter

is excluding 90 MT Sodium Dichromate that company can produce for production of Basic Chrome Sulphate. Production of one MT of basic bichrome sulphate requires 0.50 MT of sodium Dichromate. Petitioner has a capacity of 180 MT basic bichromate sulphate for which petitioner requires 90 MT sodium Dichromate. Thus, vide this letter from pollution control board considered 120 MT Sodium Dichromate for sale and 90 MT sodium Dichromate for consumption in production of basic chrome sulphate.

- e) It is stated that in any case, if capacity is considered excluding captive consumption, then production must also be considered after excluding captive consumption. While capacity upto June, 2016 excludes capacity for captive consumption, production considered includes production for captive consumption. It is inappropriate to consider capacity excluding captive consumption and production including captive consumption. Capacity utilization will show consistent increase if captive consumption is excluded from production. Thus, there can be no normation for capacity utilization for NIP determination.
- f) The domestic industry has stated that the dumping margin from all the subject countries, as arrived at by the Authority, is positive and above de minimis levels. However, it appears that the constructed normal value has been determined on the basis of NIP determined for the domestic industry. As submitted above, the NIP of the domestic industry is required to be modified for the reasons explained above. Once NIP of the domestic industry is revised, the CNV would also need to be revised.
- g) The domestic industry is suffering injury on account of dumped imports from subject countries as the demand with or without captive consumption has increased throughout the injury investigation period. Secondly, the import volumes declined from 2013-14 till 2015-16 but increased significantly during the period of investigation. This decline in subject imports was because of the apprehension of the imposition of the safeguard duties. In addition to it, the import volumes declined from 2013-14 till 2015-16 but increased significantly during the period of investigation.
- h) The dumped imports have been undercutting the prices of the domestic industry. The selling price as well as the cost of production of the domestic industry declined in the POI in comparison to the base year, but the decline in the selling price has been much more than the decline in the cost of production. The Landed price of the subject imports declined throughout the injury investigation period and was at its lowest level in the POI. Resultantly, the subject imports have had a price depression and suppression effect on the domestic industry prices.
- i) The capacity of the domestic industry has been wrongly determined as is submitted above. The misinterpretation of the APPCB orders has led to consideration of incorrect capacities figures, thereby affecting the capacity utilization, which in turn reflected upon NIP. The Designated Authority is requested to reconsider the workings and calculations for the capacities of the domestic industry as the current capacities as determined by way of the disclosure statement show an incorrect picture of the domestic industry.

- j) The domestic industry has submitted that despite a majority of the economic parameters showing an impact of the dumping and the company suffering negative growth, misinterpretation of the APPCB orders has resulted in miscalculation of the capacity levels and consequently the NIP and injury margin.
- k) Domestic industry has submitted that anti-dumping duty should be imposed in terms of US\$. Rupee has depreciated significantly and therefore, the definitive duties may kindly be expressed in US\$. The depreciation of INR has impacted the costs of the raw materials, utilities and other costs. This is also supported by the rationality involved in the decision of the CESTAT in the matter of Metcoke from China. While converting the duty to US\$, the Hon'ble CESTAT stated as follows:-
- “Section 9A stipulates that anti-dumping duty shall not exceed dumping margin. Thus the law’s intention and purpose is to afford a protection to the domestic industry at rates not exceeding the dumping margin and injury margin. We are, therefore, of the firm opinion that anti-dumping duty should be fixed in dollar terms so that erosion of the quantum of protection does not take place on account of changes in the exchange rate. In the present case the appellant domestic industry has shown that the level of protection has fallen from over 19 US \$ at the time of final finding to over 16 US \$ by now, on account of depreciation of Indian Rupee against US \$. This is necessary to carry into effect the purpose of anti-dumping duty and is, therefore, fully in conformity with the law.”*

O.II Submissions by exporters and other interested parties

84. The following submissions have been made post-disclosure by the Exporters, Importers, Users and other Interested Parties:
- i) The M/s Soda Sanayii A.S have stated that their domestic sales should not be considered for determining the normal value. Instead, the Exporters submit that the normal value should be calculated based on third country sales of the Exporters or on cost plus reasonable profit.
- ii) M/s Lanxess (Pty) Ltd., South Africa has submitted that it has not exported the PUC to India at dumped prices, and the prices to India are bona fide, arms-length commercial market prices. In view of the same, the observation that there has been dumping and the observation of a dumping margin, as also the observation of our client having indulged in price undercutting, is not merited.
- iii) M/s Aktyubinsk Chromium Chemical Plants, Kazakhstan has submitted that anhydrous form and hydrous form of sodium dichromate are not merely two forms of product under consideration as mentioned in the disclosure statement. The purported conversion of ‘anhydrous’ form of the product which has negligible moisture as exported from Kazakhstan to the ‘Di-hydrate’ form as produced by the domestic industry, to bring volume of subject goods and purity therein at same level is not a wise approach and is arbitrary. Molecular weight of anhydrous form of Sodium Dichromate is 261.965 g/mol., and of

hydrous form of Sodium Dichromate is 298 g/mol. The Designated Authority has not provided the methodology it has adopted to convert the quantities of anhydrous sodium dichromate to di-hydrate sodium dichromate.

- iv) M/s Vishnu Chemicals should not be considered as domestic industry within the meaning of Rule 2 (b) of the AD Rules, 1995 as the exception of the definition clearly states that the domestic industry should not be the importer of alleged dumped product. However, the petitioner is the importer of crude chrome ore from other countries and is converting the same ore into Hydrous Sodium Dichromate. Since, available raw material is imported from foreign country, the petitioner clearly doesn't constitute Domestic Industry.
- v) The domestic industry has claimed that it can increase the production volumes and reduce the cost, however, it is apparent from the data submitted by the domestic industry that the number of employees of the DI were reduced in the POI. The production was also low due to which the DI failed to produce the product under consideration cost effectively.
- vi) It is a matter of record that the DI has been alleging about injury due to dumping of PUC from 2012-2013 as the DI had also approached the Safeguard's authority in the said year. However, it is apparent from the records and data produced by the DI that the sales, production and profits of the DI were increasing year by year and there was no injury to the DI. The mere fact that the sales and production of the DI went down in the POI and increase in the volume of imports does not establish a causal link between injury and subject imports. There were several other factors including captive consumption, non-availability of Chrome Ore, prices of Chrome Ore, inefficiency of the DI to produce PUC cost effectively which should also be considered.
- vii) The Domestic Industry is incapable of producing the PUC cost-effectively and rather than implementing new technology, the DI intends to remove the competition from the market. Imposition of AD Duty would further increase the prices of the downstream products and would give an unfair and anti-competitive advantage to the DI as the DI captively consumes its PUC and its downstream products would be produced at relative lower costs.
- viii) It has been submitted that the disclosure statement does not contain any information about available sources of information on the basis of which the DA has determined export price of Kazakhstan products. It also does not specify any sources used by the Designated Authority to determine normal value of products from Kazakhstan.
- ix) The DA has missed to take into account the fact that M/s Vishnu Company's petition, on the basis of which investigation was initiated, is not supported by sufficient, admissible and reliable evidence. In this regard M/s ACCP is of the opinion that the investigation has been initiated without any consideration of Article 5 of AD Rules.
- x) It has been submitted that no positive recommendation of anti-dumping duty can be made due to negative margin of injury in respect of imports of subject goods from subject countries. The Designated Authority has determined negative injury margin for all the subject imports from subject countries.

Therefore, it is clear that there is no injury to the domestic industry, which is required to be removed. In the anti-dumping investigations, namely (a) Acrylic Fibre from China, Belarus, Ukraine & Peru (b) Non-woven fabric from Malaysia, India, China and Saudi Arabia & Thailand, DA has determined negative injury margin for most of the subject imports, consequently, D.A did not recommend anti-dumping duty on the imports from subject countries in all these cases and in this case also the same consistent practice may be followed.

- xi) The Designated Authority may provide actual or indexed figures for key economic parameters of the domestic industry namely employment, wages, and productivity per day, productivity per employee, inventory & profit/loss.
- xii) Disclosure of market share of M/s Vishnu Chemicals and other Indian producers also confirms that Vishnu Chemicals is not willing to sell in the domestic market. D.A also observed that production by M/s Vishnu Chemicals constitutes 82% of total production in the POI, however, it only controls 35.74% market share in the POI. Other Indian producers, which constitute 18% of total production controlled 21.93% market share in the POI which clearly shows that M/s Vishnu Chemicals is concentrating on the increasing sales and profits in downstream products of sodium dichromate and not sodium dichromate.

O.III Examination by the Authority

85. It is noted that the comments on Disclosure statement filed by the interested parties are primarily reiterations and reproductions of their earlier submissions in the context of Disclosure statement. The relevant opposing views and submissions are inter alia addressed under the appropriate sections in this final finding which are self-explanatory based on evaluation of the relevant facts and also in view of the relevant rules and jurisprudences to be followed by the Authority. Nevertheless, certain specific comments on the Disclosure statement raised by the parties are addressed as follows;

- i) With regard to the argument of insufficient information of domestic industry duly filed by them, the Authority notes that the application contained all information relevant for the purpose of initiation of investigation. The Authority, only after deriving satisfaction that application contained sufficient evidence to justify initiation of the investigation, decided to initiate the present investigation.
- ii) As regards the contention that imposition of Anti-dumping duty will have disastrous result on the compounding and downstream industries, the Authority notes that the objective of imposing anti-dumping measure is to rectify unfair trade practices and to redress its injurious effect by providing level playing field to domestic industry. Moreover, imposition of anti-dumping measures, if imposed, does not prevent imports, however imports will be available at fair prices and it will also allow competition in the domestic market.

- iii) As regards the claim of excessive confidentiality by the interested parties, the Authority notes that it has disclosed the relevant information subject to the claim of confidentiality under Rule 7 of anti-dumping rules, 1995, however, non-confidential versions of the submissions are made available in the public file. However, applicant specific confidential information has been shared with them with regard to dumping margins and non-injurious price.
- iv) As regards to the concern raised by the interested parties regarding conversion from anhydrous form of product to dihydrate form, it is noted that matter has been examined and deliberated at appropriate para under the heading Product Under Consideration. However, it is reiterated that the conversion has been carried out based on the ratio of the molecular weights of two forms of PUC in order to examine the various parameters at the same level.
- v) As regards the computation of the production capacity of the PUC, it is noted that this issue has been addressed in detail at appropriate place in this findings. However, it is once again reiterated that based on the information made available before the Authority, both capacity and capacity utilization has been worked out for the purpose of injury analysis in this finding.
- vi) As regards the determination of constructed normal value, it is noted that it has been worked out taking into account the international price of the raw materials and the consumption norm of the domestic industry for the non-cooperative exporters. The constructed normal value for Russia & Kazakhstan has accordingly been worked out and dumping margin has been modified. In view of the arrived de-minimus dumping margin from Russia, AD investigation against Russia has been terminated. Therefore, the subject countries in this investigation now constitute only South Africa, Kazakhstan and Turkey. Hence, information with regard to the dumping and injury has been modified at appropriate para. However, the normal value has been determined for the cooperative exporters based on the information made available to the Authority.
- vii) As regards the disclosure of source of information for determination of export price to the non-cooperative exporters, it is noted that transaction wise DGCI&S import data has been considered for determination of export price and injury analysis in this finding.
- viii) As regards the concern of interested parties regarding their claim of constituent domestic industry , it is noted that based on the information made available before the Authority, M/s Vishnu Chemical has been considered as the domestic industry as per AD Rules, as they are not the importers of subject goods during the POI.
- ix) As regards the disclosure of index figure, it is noted that wherever it is relevant and appropriate either the volume or the index figure have been disclosed in this findings, keeping the confidentiality of the applicants which otherwise does not impact their commercial interest.

P. Conclusions and Recommendations

86. After examining the issues raised and submissions made by the interested parties and facts made available before the Authority as recorded in this

finding, the Authority concludes that:

- I. The product under consideration has been exported to India from South Africa, Kazakhstan and Turkey, below its normal value, resulting in dumping.
- II. The domestic industry has not suffered material injury due to dumping of the product under consideration from the subject countries.
- III. Causal link between imports from subject countries and injury to the domestic industry is not conclusively established.
- IV. In view of the above, the Authority does not consider it appropriate to recommend levy of anti-dumping duty on the imports of subject goods from subject countries and hereby terminates this investigation in accordance with Rule 14(b) (e) and Rule 17 (1) (iii) read with 11(ii) of the Anti-Dumping Rules.

Q. FURTHER PROCEDURE:

87. An appeal against the order of the Central Government arising out of this finding shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act.

(Sunil Kumar)
Additional Secretary & Designated Authority