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GOVERNMENT OF INDIA  
MINISTRY OF COMMERCE & INDUSTRY  
DEPARTMENT OF COMMERCE  
(DIRECTORATE GENERAL OF ANTI-DUMPING & ALLIED DUTIES)  
NOTIFICATION

**Fl.No.14/10/2012-DGAD**

Dated the 26<sup>th</sup> June, 2013

**FINAL FINDINGS**

**Subject: Anti-dumping investigation concerning imports of Sodium Perchlorate originating in or exported from China PR**

Having regard to the Customs Tariff Act 1975 as amended from time to time (hereinafter referred as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules thereof, as amended from time to time (hereinafter referred as the AD Rules);

2. The Designated Authority (hereinafter referred to as the Authority), under the AD Rules, received a written application from M/s Calibre Chemicals Pvt. Limited alleging dumping of Sodium Perchlorate, originating in or exported from China PR (hereinafter referred to as subject country) and consequent injury to domestic industry and requested for initiation of anti-dumping investigation and levy of anti dumping measures.

3. Preliminary scrutiny of the application revealed certain deficiencies, which were subsequently rectified by the Applicant. The application was, therefore, considered as properly documented. The Authority on the basis of sufficient evidence submitted by the Applicant to justify initiation of the investigation, decided to initiate the investigation concerning imports of the subject goods originating in or exported from the subject country.

4. The Authority notified the Embassy of the subject country in India about the receipt of the application containing, *inter alia*, allegations of dumping and consequent injury to the domestic industry before proceeding to initiate the investigation in accordance with Rule 5(5) of the AD Rules.

5. Accordingly, the Authority initiated an investigation into the alleged dumping, and consequent 'injury' to the domestic industry in terms of the Rules 5 of the AD Rules, to determine the existence, degree and effect of alleged dumping and to recommend the amount of anti-dumping measure, which, if levied, would be adequate to remove the injury to the domestic industry.

#### **A. PROCEDURE**

6. Procedure described below has been followed with regard to this investigation:

- i. The Authority notified the embassy of the subject country in India about the receipt of dumping application before proceeding to initiate the investigation in accordance with sub-Rule 5(5) of the Anti-dumping Rules.
- ii. The Authority issued a public notice dated 27<sup>th</sup> June, 2012, published in the Gazette of India, Extraordinary, initiating anti-dumping investigation concerning imports of the subject goods, originating in or exported from the subject country.
- iii. The Authority forwarded a copy of the public notice to all the known exporters (whose details were made available by the Applicant) and industry associations and gave them opportunity to make their views known in writing in accordance with the Rule 6(2) of the Anti-dumping Rules.
- iv. The Authority also forwarded a copy of the public notice to all the known importers of the subject goods in India (whose details were made available by the Applicant) and advised them to make their views in writing within forty days from the date of the letter.
- v. The Authority provided a copy of the non-confidential version of the application to the known exporters and the embassy of the subject country in India in accordance with Rule 6(3) of the Anti-dumping Rules. A copy of the Application was also provided to other interested parties, wherever requested.
- vi. The Authority sent questionnaires to elicit relevant information to the following known exporters in subject country in accordance with Rule 6(4) of the Anti-dumping Rules:
  - a. Dalian Gaojia Chemical Co., Ltd
  - b. Dalian Tuowei International Trade Co., Ltd
  - c. Changsha Xiang Wei Chemical Trade Co., Ltd.
  - d. Dalian Baobo Commercial Business Co., Ltd
  - e. Tianjin Bairun International Trade Co., Ltd.
  - f. Changsha Xiang Wei Chemical Trade Co., Ltd

- vii. None of the exporters from the subject country has responded to the initiation notification except one exporter M/s Dalian Chlorate Ltd who filed the response very late after the initiation notification. However, the Authority accepted this response. The examination of response of this producer and exporter showed that the response was deficient and accordingly, a deficiency letter was issued to the producer and exporter to submit their reply. As the exporter did not submit the response to the deficiency letter in the form and manner of exporter's questionnaire, the same has not been accepted by the Authority.
- viii. Questionnaires were sent to the following known importers/users of subject goods in India calling for necessary information in accordance with Rule 6(4) of the Anti-dumping Rules:
- a. Indian Explosives limited
  - b. Solar Industries Limited
  - c. Suma Chemical Pvt. Ltd.
- ix. In response to the initiation notification, the following importer has responded:
- a. Suma Chemical Pvt. Ltd.
  - b. Indian Explosives limited
  - c. Solar Industries Limited
- x. 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.
- xi. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of imports of the subject goods for the past three years, including the period of investigation. The transaction wise import data received from the DGCI&S has been relied upon by the Authority in this finding. There were certain errors in the DGCIS transaction wise data and these have been suitably corrected after taking into account the responses filed by the various interested parties.
- xii. Optimum cost of production and cost to make & sell the subject goods in India based on the information furnished by the Applicant on the basis of Generally Accepted Accounting Principles (GAAP) was worked out so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry. The NIP has been determined after onsite verification at the premises of the domestic industry as per Annexure III of the anti dumping rules.
- xiii. The Authority held a public hearing on 01.05.2013 to hear the interested parties orally. The interested parties present at the time of hearing were advised to file

- written submissions of the views expressed orally and were also given an opportunity to file rejoinder to the views expressed by other interested parties. The written submissions and rejoinders received from interested parties have been considered, to the extent considered relevant.
- xiv. On the spot verification of the data provided by the applicant was carried out to the extent considered necessary.
- xv. In accordance with Rule 16 of the Rules supra, the essential facts were disclosed by the Authority to the known interested parties and comments received on the same, have been considered in the final finding. The following interested parties have submitted their comments to the disclosure statement.
- a. Indian Explosives limited
  - b. Solar Industries Limited
  - c. M/s Calibre Chemicals Pvt. Limited
- xvi. Investigation was carried out for the period starting from 1<sup>st</sup> April, 2011 to 31<sup>st</sup> March, 2012 (POI). The examination of trends, in the context of injury analysis covered the period from April 2008-March 2009, April 2009-March 2010, April 2010-March 2011, and the POI.
- xvii. The submissions made by the interested parties considered relevant by the Authority, have been addressed in this final finding.
- xviii. \*\*\* in this final findings represents information furnished by the interested parties on confidential basis and so considered by the Authority under the Rules.
- xix. The exchange rate adopted for the POI is 1 US \$ =Rs 48.14

## **B. Product Under Consideration and Like Article**

### **Views of the Domestic Industry**

7. Sodium perchlorate is the inorganic compound with the chemical formula  $\text{NaClO}_4$ . It is commercially available as Sodium Perchlorate (Anhydrous) and Sodium Perchlorate (Monohydrate). The Monohydrate contains one molecule of water. It is the most soluble of the common perchlorate salts.
8. Sodium Perchlorate is a white crystalline, hygroscopic solid that is highly soluble in water and in alcohol. It usually comes as the monohydrate, which has a rhombic crystal structure. It is used to manufacture explosives for mining, in perchloric acid and other perchlorates

manufacture and UV Stabilizer for engineering plastics. It is classified in Chapter 28 of the Customs Tariff Act, 1975 under subheading 2829 90 and 28299010.

9. There is no known difference in the subject goods produced by the domestic industry and that imported from the subject country. The subject goods produced by the domestic industry and the subject goods imported from subject country are comparable in terms of characteristics such as physical and chemical characteristics, manufacturing process and technology, functions and uses, product specifications, distribution and market & tariff classification of the goods.
10. Responding interested party itself has consumed the domestic product and imported product interchangeably. Further, the imported product and domestic product is nothing but Sodium Perchlorate. There is no significant difference in the goods supplied by the domestic industry and goods imported from China
11. There is no basis for the presumption that the petitioner is not producing Anhydrous grade. In fact, petitioner is producing and selling Anhydrous grade.
12. Dumping and injury to the domestic industry are required to be seen for an “article” and not for “each of the type of an article”. Further, the Designated Authority can consider exclusion of a product type, only if that product type or like article thereof has not been offered by the domestic industry. The Designated Authority should not consider exclusion of a product type not imported into India. If this test of considering exclusion of product type not imported into India were to be applied, practically, it would imply reducing definition of “article” to “product types” and defining product under consideration as the product types imported only.
13. The fact that one grade is priced higher than another grade is entirely immaterial. The DA has by now conducted numerous investigations where price of one grade is higher than other grade and these have been considered as one article such as caustic soda – lye and flake, phosphoric acid – Technical and Food grade, HR Coils – Plates and sheets. Post disclosure, the domestic industry has reiterated its submissions that there is no difference in Sodium Perchlorate produced by the domestic industry and those imported from subject country and the product under consideration in this investigation is Sodium Perchlorate. In their submission before the Authority they have submitted that they have manufactured and sold Sodium Perchlorate also in anhydrous grade forms and in this regard they have enclosed the copies of invoices which show the sales of sodium perchlorate (anhydrous grade).

**View of the Importers/consumers and other interested parties**

14. Submissions made by importers/consumers and other interested parties are as follows:
  - a. Imported and domestic products cannot be termed as ‘like articles’.

- b. Anhydrous grade must be excluded as the petitioner is not manufacturing and it is not being imported into India. Therefore, there cannot be any injury to the domestic industry on account of anhydrous grade.
- c. There is absence of commercial competition between the two grades due to huge price and cost difference. The price of anhydrous grade is at least 25% higher than the price of monohydrate grade.
- d. Post disclosure M/s Indian explosives Limited has drawn the attention to the Authority towards the imports statistics submitted by domestic industry, where anhydrous grade has been specifically excluded from the scope of PUC. In this regard they have attached various exhibits where the domestic industry has only referred to monohydrate grade i.e. in the import statistics enclosed by the petitioner in their petition, constructed normal value, export price, proforma IVA and B. They have further stated that anhydrous grade is not imported to India and the domestic industry has not provided any injury information relating to anhydrous grade
- e. It has been further submitted by the importer that when the application filed by the domestic industry itself not covers the anhydrous grade, then subsequent inclusion of such grade is not permitted. It has also been submitted that anhydrous grade is not imported into India and domestic industry has not provided any injury information relating to anhydrous grade. Further, it has been submitted by the importer that though the domestic industry has claimed that they are involved in production and sale of anhydrous grade, no evidence has been submitted to substantiate such claim to the other interested parties or the Authority and mere statement in the submission is not sufficient to substantiate the claims. Therefore, they have requested the authority to exclude anhydrous grade from the scope of PUC.

### **Examination of the Authority**

- 15. The product under consideration for the purpose of present investigation is “Sodium Perchlorate” from China PR. The main function of sodium perchlorate is to manufacture explosives for mining, in perchloric acid and other perchlorates manufacture and UV Stabilizer for engineering plastics. Sodium perchlorate is an organic compound and is classified under Chapter 28 (within perchlorates with 8 digit subhead 28299010) of the Customs Tariff Act, 1975. The customs classification is, however, indicative only and is in no way binding on the scope of the present investigation
- 16. With regard to like article, Rule 2(d) of the Anti-dumping Rules provides as under:

*"like article" means an article which is identical or alike in all respects to the article under investigation for being dumped in India or in the absence of such article, another article which although not alike in all respects, has characteristics closely resembling those of the articles under investigation."*

17. After considering the information on record, the Authority is of the view that there is no known difference in the subject goods produced by the domestic industry and that imported from the subject country. The subject goods produced by the domestic industry and the subject goods imported from subject country are comparable in terms of characteristics such as physical and chemical characteristics, manufacturing process and technology, functions and uses, product specifications, distribution and market & tariff classification of the goods. The consumers are using the two interchangeably.
18. Indian Explosive Ltd has contended without any supporting evidence that domestic product is not like article to the imported product. Further, no verifiable evidence has been provided by Indian Explosive Ltd. With regard to the contention of Indian Explosives Ltd that cost and price in a market economy third country is available, it is noted that no such information has been provided by Indian Explosives Ltd. Petitioner claimed that no such information is publically available. The web search also has not shown any such publically available information. The information provided in the petition however shows that the domestic and imported product constitutes one like article.
19. As regards the contention that anhydrous grade must be excluded as the petitioner is not manufacturing and it is not being imported into India, it is noted that the domestic industry is in fact manufacturing anhydrous grade. With regard to submissions from the importer post disclosure, it is stated that the petition clearly stated the PUC as sodium perchlorate. With regard to some of the exhibits enclosed and cited by the importer in their post disclosure statement, it is noted that though some of the exhibits mention the product heading as SPM (Sodium Perchlorate Monohydrate) , the subsequent injury information received from the domestic industry included information with respect to Sodium Perchlorate as a whole. Further, the import data shown as one of the exhibits mention Sodium Perchlorate as well as Sodium Perchlorate Monohydrate imported from China PR as PUC. Further, all the injury information as well as determination of non-injurious price for the domestic industry has made for Sodium Perchlorate as a whole. As already mentioned elsewhere in the finding, the domestic industry has placed copies of sales invoice showing Sodium Perchlorate anhydrous grade as well. Thus, from the information placed before the authority, it is noted that the domestic industry is indeed manufacturing both the grades i.e. monohydrates as well as anhydrous grade. Therefore exclusion of the grade from the scope of product under consideration is not warranted. Further, the subject goods produced by the domestic industry and that imported from subject countries are technically and commercially substitutable. The investigation covers all forms of sodium perchlorate.

### **C. Domestic Industry and Standing**

20. Rule 2(b) of the AD Rules defines domestic industry 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”*

21. With regard to the argument of Indian Explosive Ltd (IEL) that petitioner is not a domestic company, the Authority notes that the petitioner is a company incorporated in India and constitutes domestic industry within the meaning of Rule 2(b). IEL has not established how the petitioner does not constitute a domestic producer and domestic industry within the meaning of Anti Dumping Rules.
22. After examining the records placed by the various interested parties, it is noted that the Application has been filed by M/s Calibre Chemicals Pvt. Limited, which is the sole manufacturer of the product under consideration. As per the evidence available on record, the petitioner has not imported the product under consideration, nor there exist any other producer of the product under consideration in India. The Authority therefore holds that the petitioner commands a major proportion of the production of the subject goods in India and constitutes the domestic industry in terms of Rule 2(b).

#### **D. Confidentiality**

##### **Views of the Domestic Industry**

23. Submissions made by the domestic industry with regard to confidentiality are as follows:
  - i. The DA has satisfied itself with regard to confidentiality claimed by the petitioner. It is also pointed out that Rule 7 does not allow the DA to reject any information. All relevant information has been made available to the extent required. The importer is trying to impede the process of investigation.
  - ii. The petitioner has disclosed all that information which was required under the rules. Petitioner is a private limited company and therefore is not obliged to disclose its Annual Report to the interested parties. Yet, petitioner has made available Annual Report for the period 2011-12. Further, petitioner has made available extracts from the Annual Report for the entire injury period.
  - iii. Deductions from export price have been explained in the non-confidential version itself.

##### **View of the Importers/consumers and other interested parties**

24. Submissions made by importers/consumers and other interested parties with regard to confidentiality are as follows:

- i. Unwarranted confidentiality claims by the petitioner with respect to (a) source of price considered for sodium chlorate, (b) Annual reports for the injury period and POI, and (c) Deductions from export price in arriving at the ex-factory export price.
- ii. If the petitioner refrains from providing any of the above mentioned information on non confidential basis, the information submitted on confidential basis should also be rejected in line with Rule 7(3) of the AD Rules and the investigation be terminated immediately.
- iii. Authority should not take any action against the interest of the respondent unless a meaningful summary of the above mentioned information is made available to the respondent and an opportunity of being heard by way of fresh public hearing should be granted to the respondent.
- iv. Import statistics obtained from DGCI&S and US Customs data must also be disclosed to the other interested parties.
- v. One of the importers has submitted in his post disclosure comments that non-disclosure of essential information and by claiming excess confidentially has hindered the respondent from filing a meaningful submission. Following information has not been provided to other interested parties:
  - i. Source of price considered for sodium chlorate
  - ii. Annual reports for the injury period and POI
  - iii. Deductions from export price in arriving at the ex-factory export price
  - iv. Import statistic obtained from DGCI&S

#### **Examination by the Authority**

25. The Authority has examined the confidentiality claims of the interested parties. The Authority made available to all interested parties the public file containing non-confidential version of evidences submitted by various interested parties for inspection, upon request as per Rule 6(7).
26. With regard to confidentiality of information, Authority notes that the information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claims. 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. With regard to non-disclosure of essential information alleged by importer, it is noted that all the information as mentioned in para 24 has already been placed in the public file and in the subject finding. With regard to source of the price considered for Sodium chlorate, it is noted that international price of Sodium chlorate available as per World Trade Atlas has been taken into account for determination of constructed normal value. With regard to annual report of the domestic industry, it is stated that the same has already been put in the public file following public hearing. With regards to deduction from export price to arrive at the ex-factory export price, it is stated that the adjustment has been done on the basis of facts available in this case as none of the exporters have submitted the required information to the Authority in the form and manner of exporters questionnaire. With regard to import statistics obtained from DGCIS, it is noted that the same has been examined under the appropriate heading in this findings.

#### **E. Miscellaneous Submissions**

### **Views of the Domestic Industry**

27. Miscellaneous submissions made by the domestic industry are as follows:

- i. Cost on account of product under consideration forms insignificant part in the Solar Industry's cost. Further, the proposed anti dumping duty shall not have significant adverse effect on the global competitiveness of the company, as imports for exports are permitted without payment of anti-dumping duty.
- ii. Purpose of anti dumping duty is not to restrict imports, it is to eliminate injury caused to the Domestic Industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country.
- iii. The petition is targeted to address the dumping being faced by the domestic industry. There is no other motive behind the same.
- iv. The petitioner has provided best available information with regard to import data. The information constitutes positive evidence within the meaning of anti dumping law and practice. Further, the Designated Authority has routinely accepted data from secondary sources for the purpose.
- v. The petition was based on data received from M/s. Balaji Data Information Services and a non-confidential version of the same has been disclosed to the interested parties through the petition.

### **View of the Importers/consumers and other interested parties**

28. Miscellaneous submissions made by importers/consumers and other interested parties are as follows:

- i. Petition is motivated to derive narrow profit objective by distorting the accessibility to better quality and price including service of the imported product by domestic manufacturers which contrary to the spirit of international trade and treaties.
- ii. To maintain global competitiveness Solar Industries need to bring their costing to the lowest possible levels. Imports of raw material are the part of strategy to enable them to achieve global competitiveness. Imposition of extra duty on behest of sole producer who will then monopolise the prices is detrimental to the importers interest.
- iii. Transaction wise import statistics has not been disclosed to the other interested parties. The domestic industry should not be allowed to change the basis of the import statistics at the time of the public hearing. The revised data is belated.
- iv. In case authority decides to consider such import statistics, the interested parties should be provided DGCIS data along with a detailed write up about the methodology followed by the petitioner in arriving at the import data.
- v. During the course of the public hearing, DA instructed the petitioner to submit the import statistics procured from DGCI&S & US Customs and place the same in public file. The petitioner has refrained itself from submitting such data, amounting to gross violation to

the instructions of the authority. Therefore the authority should disregard such import statistics. In case the authority decides to consider such import statistics, we request DGAD to kindly provide all the interested parties with the DGCIS data.

### **Examination by Authority**

29. The miscellaneous submissions made by the interested parties have been analysed by the Authority as follows:
- a. As regards the contention that transaction wise import statistics has not been disclosed to the other interested parties, it is noted that the Application Proforma does not require submission of transaction wise import data. Further, it is noted that the domestic industry has analyzed the data procured from Balaji Data Information Services and has disclosed non confidential version of the information based on such data to the interested parties.
  - b. As regards the contention that import statistics should not be changed at the time of the public hearing, it is noted that it has been the practice of the Authority to obtain data from the DGCI&S during the course of the investigations and examine the same for the purpose of determination. In fact, during the proceedings, the Authority received transaction wise information from DGCIS which was analysed during the investigation. A few discrepancies were noted during the analysis and further investigations were carried out by the Authority to ascertain the source of the imports by contacting the importers of such goods (which was mentioned in the DGCIS transaction wise data). It was claimed by the domestic industry that no subject goods have been imported from USA and UK during period of investigation and they enclosed information from US customs and Euro stat data. It was noted during the examination of DGCIS transaction wise data that out of the three consignments where it was noted that subject goods have been imported from non subject countries, a closer examination of two bills of entries suggested that these subject goods have indeed been imported from subject country only. In one case, the bill of entry no, date as well as volume of subject goods import matched with the importers data while in other case, the date, Qty as well as 6 digits of bill of entry matched with that of cooperating importer. With regards to one consignment of subject goods reflected in DGCIS data to have been imported from UK, it was noted from the importer's reply that they had not imported such goods from UK. Later, it was also confirmed from the responding importer data that the said subject goods are from China PR only.
  - c. With regard to making available the transaction wise data of DGCIS in the public file, it is stated that as per the practice of the Authority, the transaction wise data received from DGCIS which mentions bill of entry no, date as well as importers name have not been kept in the public file. However, the culled out data in terms of volume and value including analysis has been mentioned clearly in the final findings.
  - d. As regards the contention that imposition of extra duty on behest of sole producer who will then monopolize the prices and the same would be detrimental to the consumers interest, it is noted that anti dumping duties are levied after following the due procedure

established by law and only after the requirements as provided under the law are met and not merely on behest of the domestic producer's claim. Further, the objective of anti dumping duty is to give a level playing field to the domestic industry, imports are not barred as a result of imposition of anti dumping duty.

### **Normal Value, Export Price And Dumping Margin**

30. The Authority sent questionnaires to the known exporters from the subject country, advising them to provide information in the form and manner prescribed. As mentioned in this disclosure statement, M/s Dalian Chlorate responded very late to the initiation notification and submitted response to the exporter's questionnaire much outside the response period. The same, however, was accepted by the Authority for further examination. During the process of examination, it was noted that the same was grossly deficient and accordingly, a deficiency letter was issued to the exporter asking them to attend to the deficiencies within a given time frame. The response which was received after the stipulated period was also deficient. It was noted after examining the response that the information as asked in the questionnaire were not provided in the form and manner of exporter's questionnaire. In particular, basis of the adjustments claimed in their export prices to India was not mentioned. In fact, some of the significant adjustments like inland freight, basis of overseas freight has not been mentioned. In addition, it is noted that Appendix 2A in the form and manner of exporter's questionnaire has not been provided. Further, the exports to India in terms of volumes and values differ in the Appendix 2 and 3 given by them. Responses to other appendix as per the exporter's questionnaire have not been provided by the exporter. Further, no evidence of the payment received from the Indian importer was enclosed. In view of the above fact, it is proposed not to accept the deficient response of the exporter and not to grant individual dumping margin to that exporter. Apart from this exporter, none of the producer/exporter from China PR has co-operated in this investigation by filing their Questionnaires' responses. **Post disclosure**, M/s Dalian Chlorate Ltd has submitted that their response has been incorrectly rejected by the Authority as they were only exporter to have filed the response. The matter has been examined and it is noted that M/s Dalian Chlorate Ltd has failed to submit the response in the form and manner of exporter's questionnaire and therefore, their response has not been accepted by the Authority.

### **Views of the Domestic Industry**

31. The domestic industry has stated as follows:

- a. It has been contended by the domestic industry that China PR should be treated as non-market economy country, *inter alia*, stating that:
  - Market economy status cannot be given in a situation where one of the major shareholders is a State owned/controlled entity – It has been contended by the Domestic industry that the European Commission has consistently held that possibilities of State interference cannot be ruled out in cases, where there is significant share of a State owned /controlled entity. It has been contended that it is not only the question of past

interferences alone, but also possibilities of potential State interference in the future after the imposition of anti dumping duties that is relevant for granting market economy treatment.

- Market economy status cannot be given unless the responding Chinese exporters establish that the prices of major inputs substantially reflect market values: It has been contended by the Domestic industry that “substantially reflect market values” has been widely interpreted to mean that the price of these inputs must be comparable to the prices prevailing in the international market. The Domestic Industry contends that the fact that such prices are comparable to the price prevailing in China PR is grossly insufficient.
- Major inputs include utilities: It has been contended by the Domestic industry that production of the products concerned require power and fuel as a major item of utility. Admittedly, while the power supplier is a State owned entity, insufficient information is available with regard to fuel supplier. It has not been established by the exporters that the price of utilities reflect fair market values.
- Market economy status cannot be given unless the responding exporters establish that their books are audited in line with international accounting standards: It has been contended by the Domestic industry that Chinese exporters have repeatedly disputed the treatment of European Commission to reject market economy treatment in such situations where Chinese exporters are unable to establish that their books are consistent with Chinese GAAP. Chinese companies in such cases have been contending that the requirement of insisting on compliance with International Accounting Standards is beyond law. The European Commission has held that the requirement on insisting compliance with International Accounting Standards is to ensure accuracy and adequacy of revenues and expenses, assets and liabilities expressed in the annual report. To quote the European Commission, reliability of the accounts is not established with regard to this aspect unless the books are consistent with International Accounting Standards.
- Market economy status cannot be granted even if one of the parameters is not satisfied: It has been contended by the Domestic industry that the European Commission has repeatedly insisted that market economy status cannot be granted unless the responding Chinese exporters pass the test in respect of each and every parameter laid down under the Rules.
- Onus/obligations: It has been contended by the Domestic industry that it is not for the Authority to establish that the responding companies are indeed operating under market economy environment and are entitled for market economy treatment. On the contrary, it is for the responding Chinese exporters to establish that they are operating under market economy conditions.
- Transformation: It has been contended by the Domestic industry that in a situation where the current shareholders have not set up their production facilities themselves but have acquired the same from some other party, market economy status cannot be granted unless process of transformation has been completely established through documentary evidence.
- It has been contended by the Domestic industry that failure to satisfy a number of conditions mentioned above by the responding Chinese exporters, is sufficient to hold

that market economy status cannot be granted to responding Chinese companies and thus the Normal value should be determined in accordance with Para-7 of the Rules.

- b. Domestic industry has further stated that none of the Chinese producers has claimed market economy treatment. Thus, the Authority cannot consider whether one or more Chinese company relating to the product under consideration or the Chinese economy relating to the product under consideration may be accorded market economy treatment in the present case.
- c. The raw material is sodium chlorate and the same has been adopted for the purpose of determining normal value. In case of non market economy, the Authority is required to consider cost or price in a market economy third country.
- d. No submissions should be considered on behalf of the Dalian Chlorate Company for the reason that the company has not filed questionnaire response and submissions within time limits. In fact, company has not made any oral submissions at the time of oral hearing. M/s. Dua Associates clearly stated at the time of hearing that they were representing Solar Industries Ltd.
- e. The Chinese exporters have not cooperated with the Authority and have not established difference in manufacturing process and impact thereof. An importer in India cannot establish the existence of different manufacturing process between petitioner and foreign producer nor an importer can quantify the impact of the same as is evident in the matter of *AIIGMA v. Designated Authority* - 2000 (119) E.L.T. 333 (Tri.) decided by the Hon'ble CESTAT.
- f. Importer cannot provide information with regard to normal value and the importers or consumers in India are not entitled to question the correctness or otherwise of the normal value.
- g. The Designated Authority is required to determine normal value for the like article. The domestic industry has produced and sold like article and, therefore, the Designated Authority is required to consider the normal value based on Annexure-7 to the rules.
- h. Once the Designated Authority comes to a conclusion that Para 7 shall apply, the DA is not required to consider Chinese cost. The same becomes entirely irrelevant.
- i. Petitioner has made claim based on verifiable information. The Designated Authority has since conducted verification and may, therefore, consider facts on basis of verified data. Confidentiality of evidence is protected under Rule 7 and the same cannot be disclosed to other interested parties.
- j. The petitioner has provided information based on its own experience. The raw material for petitioner is sodium chlorate and the same has been adopted for the purpose of determining normal value. In case of non market economy, the Designated Authority is required to consider cost or price in a market economy third country.
- k. The company has adopted either production or turnover ratio for allocation and apportionment of fixed expenses. As a result of reduction in production, the company has charged lower share of expenses and therefore the cost of production in POI is not higher on account of lower production.
- l. The share of expenditure charged to the product in the past was higher than the share of expenditure charged in the POI. This is on account of reduction in production. Thus, as a result of reduction in production, the company has charged lower share of expenses and therefore the cost of production in POI is not higher on account of lower production

- m. The Designated Authority does not consider actual conversion cost and instead adopts normated conversion cost for the purpose of determination of normal value. Such being the case, in any case, there is no basis for the argument that the constructed normal value may be inflated.
- n. They have requested the authority to reject the exporter questionnaire response from M/s Dalian Chlorate Ltd.

**View of the Importers/consumers and other interested parties**

32. Submissions made by importers/consumers and other interested parties with regard to normal value, export price and dumping margin are as follows:

- i. For the determination of normal value of the product ‘market’ and ‘non-market-economy’ are not relevant and carry no bearing.
- ii. The cost or price in a market economy third country is available and has not been provided.
- iii. Domestic Industry has wrongly constructed the normal value. The CNV cannot be as high as 1.97 USD.
- iv. Source of data from Balaji Data Information Services after adjustment is not authentic and reliable
- v. Evidences have not been provided to show that normal value is higher than the net export price.
- vi. There is difference in manufacturing process of the petitioner and Chinese manufacturers. Petitioner manufactures using sodium chlorate as raw material and converting the same into Sodium Perchlorate. Whereas the manufacturers in China PR manufacture the subject goods by converting common salt plus water into sodium chlorate and sodium chlorate into Sodium Perchlorate. The cost of production of the petitioner should be adjusted accordingly.
- vii. All conversion costs including power costs, SGA expenses, etc. have been determined based on the domestic industry’s cost sheet. The power cost in China is not the same as the power cost in India.
- viii. The cost of conversion cannot be as high as submitted by the petitioner.
- ix. Dumping margin is unsubstantiated, as evidences for arriving at normal value and ex-factory export price have not been made available to the Authority.
- x. Construction of the Normal Value is flawed and needs be revisited by the Designated Authority. Constructed normal value has been artificially and intentionally inflated by the Domestic Industry. Perhaps the Constructed Normal Value of Rs. 92.27 per Kg calculated by the Domestic Industry is on account of abnormally high Cost of Production in the POI i.e. 40% capacity utilization.

**Examination of Market Economy claims in respect of China PR by the Authority**

33. The Authority notes that in the past three years China PR has been treated as a non-market economy country in anti-dumping investigations by India and other WTO Members. China PR has been treated as a non-market economy country subject to rebuttal of the presumption by the exporting country or individual exporters/producers in terms of the AD Rules.
34. As per Paragraph 8 of Annexure I of the AD Rules, the presumption of a non-market economy may be rebutted, if the exporter(s) /producer(s) from China PR provide information and sufficient evidence on the basis of the criteria specified in sub paragraph (3) of Paragraph 8 and establish the facts to the contrary. The cooperating exporters/producers of the subject goods from People's Republic of China are required to furnish necessary information/sufficient evidence as mentioned in sub-paragraph (3) of paragraph 8 in response to the Market Economy Treatment questionnaire to enable the Authority to consider the following criteria as to whether: -
- the decisions of concerned firms in China PR regarding prices, costs and inputs, including raw materials, cost of technology and labour, output, sales and investment are made in response to market signals reflecting supply and demand and without significant State interference in this regard, and whether costs of major inputs substantially reflect market values;
  - the production costs and financial situation of such firms are subject to significant distortions carried over from the former non-market economy system, in particular in relation to depreciation of assets, other write-offs, barter trade and payment via compensation of debts;
  - such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms and
  - the exchange rate conversions are carried out at the market rate.
35. The Authority notes that consequent upon the initiation notice issued by the Authority, none of Chinese producers/exporters has submitted the questionnaires' responses including the market economy questionnaire's response as per the form and manner of it and sought to rebut the non-market economy presumption.

#### **Determination of Normal value in respect of Exporters / Producers from China PR**

36. As none of Chinese producers and exporters has submitted the questionnaires' responses; the Authority has estimated the Normal value in China PR on the basis of Para-7 to Annexure-I to the AD Rules. Para 7 of Annexure I of the AD Rules provides as follows.

*“In case of imports from non-market economy countries, normal value shall be determined on the basis of the price or constructed value in the market economy third country, or the price from such a third country to other countries, including India or*

*where it is not possible, or on any other reasonable basis, including the price actually paid or payable in India for the like product, duly adjusted if necessary, to include a reasonable profit margin. An appropriate market economy third country shall be selected by the designated authority in a reasonable manner, keeping in view the level of development of the country concerned and the product in question, and due account shall be taken of any reliable information made available at the time of selection. Accounts shall be taken within time limits, where appropriate, of the investigation made in any similar matter in respect of any other market economy third country. The parties to the investigation shall be informed without any unreasonable delay the aforesaid selection of the market economy third country and shall be given a reasonable period of time to offer their comments”.*

37. The Authority had stated, in the initiation notification that the applicant has claimed that China PR should be treated as Non Market Economy and therefore Normal value in case of China PR should be determined in accordance with Para 7 and 8 of Annex-I of the AD Rules. The applicant has submitted that India can be considered as an appropriate market economy third country for determination of Normal value in China PR, pleading that information for market economy third country is not available to them. This claim has not been contested by any other interested party.
38. Considering that there has been no response from any exporter/producer of the subject goods from China PR and further noting that information/data regarding appropriate market economy third country for determination of Normal value in China PR is not available on record; the Authority has determined the Normal value for China PR on available ‘reasonable basis’, in terms of second proviso of para 7 of Annexure 1 to the AD Rules. Accordingly, the ex-works Normal Value of the product under consideration has been determined based on constructed costs of production, duly adjusted. The Normal Value has been constructed as per the methodology described below:

#### **Methodology adopted for constructing Normal Value in case of China PR**

39. The Authority has constructed Normal value for the Chinese producers on the following basis –
  - a. Prices of major inputs have been considered on the basis of prevailing international price.
  - b. Consumption of raw materials per unit of production and the conversion costs have been considered on the basis of best information/data available on record, i.e., on the basis of information/data of the domestic industry. As regards the contention that the cost of production of the petitioner should be adjusted as per the raw material usage by the Chinese producers, it is noted that the response submitted by the Chinese producers have not been accepted and therefore normal value cannot be adopted based on Chinese data. The Authority has considered best information/data available on record as mandated under the Anti dumping Rules, i.e., on the basis of information/data of the domestic industry. Further, the authority has not adopted actual cost of production of the petitioner for determining normal value. The authority has considered normatted cost of production as adopted for the purpose of non injurious price for determining normal value in China.

- c. Selling, general & administrative costs have been taken on the basis of best information/data available on record, that is, on the basis of information/data of the domestic industry.
  - d. Profit has been taken @ 5% of ex-factory costs, excluding interest.
40. With regard to the contention of Indian Explosives Ltd that cost and price in a market economy third country is available, it is noted that no such information has been provided by Indian Explosives Ltd. Petitioner claimed that no such information is publically available. The web search also has not shown any such publically available information.
41. With regard to the argument of Solar Industries that the normal value constructed is flawed, the Authority notes that the calculation of normal value is based on positive evidence. Further, it has been assumed without any basis that Sodium Chlorate alone constitutes a major part of the cost.
42. Normal value of the product under consideration has been determined as Rs \*\*\* per kg /US\$ \*\*\* per kg.

**EXPORT PRICE**

43. Since, no response in the form and manner of exporter’s questionnaire has been received from any producer/exporter of the subject goods from China PR; the Authority has determined Export Price as per ‘facts available’ in terms of Rule 6(8) of the AD Rules. For this purpose, the volume of imports as per DGCI&S data has been relied upon. The adjustments to the CIF prices have been made as per facts available on record. Accordingly, export price has been adjusted for ocean freight, port expenses in China, inland freight, marine insurance and bank commission.
44. Indian Explosives Ltd has disputed adoption of secondary source data in the petition. While the authority notes that the petitioner is justified in adopting best available information, in any case, the present determination is based on DGCI&S information.

**DUMPING MARGIN**

45. Considering the Normal value and Export price as determined above, the dumping margin has been determined as follows. It is seen that the dumping margin is more than de-minimus and significant.

Particulars	Rs/Kg	US\$/Kg
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Normal value	***	***
Net Export price	***	***
Dumping Margin	***	***
Dumping Margin (%)	***	***
Dumping Margin (%) Range	20-30	20-30

## **F. Injury Determination**

### **Views of the Domestic Industry**

46. The submissions made by domestic industry with regard to injury and casual link are as follows:
- a. The volume of imports has shown massive increase in absolute terms.
  - b. Demand for the product under consideration has increased significantly over the period of injury, whereas the sales of the domestic have declined significantly even with the enhancement of the capacity.
  - c. Market share of dumped Chinese imports have increased consistently throughout the period of injury and is very significant in the POI. At the same time the market share of the petitioner has declined.
  - d. Imports are undercutting the prices of the Domestic Industry to a significant extent.
  - e. Imports are depressing the prices of the Domestic Industry and preventing the price increases that would have occurred in the absence of dumping.
  - f. Performance of the Domestic Industry has steeply deteriorated in terms of production, capacity utilization, domestic sales, inventories, market share, profits, return on investments, cash flow, and has reached negative levels.
  - g. There being no other supplier of the product under consideration in the country, decline in the market share, production, sales and capacity utilization and increase in inventories is clearly on account of dumped imports into the country.
  - h. The factors affecting the prices of the domestic industry are import price from China and input prices. Thus, the price depression and suppression is due to dumping of the product in the market.

- i. Growth of the domestic industry is adverse in terms of both volume and price parameters.
- j. Domestic Industry was capable of meeting substantial part of the Indian demand. The increase in imports cannot be justified by the lack of capacities with the domestic industry.
- k. Imposition of the anti-dumping measures does not prevent or restrict the imports of the subject goods. The intent of the anti-dumping measures is to create a level playing field for the domestic producers vis-a-vis the dumped imports.
- l. There was no adverse volume effect till 2010-11 despite capacity addition and the capacity utilization itself establishes adverse volume effect.
- m. Decline in performance of the domestic industry in POI as compared to previous years clearly implies injury.
- n. Decline in profits, production, sales, capacity utilization in POI and increase in inventories with increase in imports clearly establishes injury.
- o. The law does not require a gradual decline in performance over the injury period. If the performance of the domestic industry declined in POI, the same implies injury.
- p. Performance of the domestic industry shall show deterioration even if interest expenses and depreciation costs are taken at the same level.
- q. With the significant increase in interest costs and depreciation cost in 2009-10, the profitability of the domestic industry was almost maintained. With the decline in interest cost in POI, the profitability steeply deteriorated to a situation of financial losses.
- r. When existing capacities itself remained unutilized, injury to the domestic industry could not have been due to inability of the domestic industry to match up the demand with rise in capacities.
- s. Exports by the petitioner have not declined. There was one time higher exports in 2010-11. Once these exports are excluded, it would be seen that exports in the remaining period have remained at similar level. In any case, if production, sales, capacity utilization, profits, return on investment, cash flow etc. are determined after segregating exports, the data nevertheless shows significant deterioration.
- t. Rules require the Designated Authority to segregate injury caused to the domestic industry due to other factors. Therefore, if it is considered that export performance has impacted the injury analysis, the Designated Authority can consider export performance after segregating exports information.
- u. CESTAT decision Indian Spinners Association vs. Designated Authority 2004 (170) E.L.T. 144 (Tri. - Del.) was entirely different and the same cannot be applied in the present case. Significant decline in profitability over the period clearly establishes injury. Further, injury to the domestic industry is established in terms of decline in production, sales, capacity utilization, profit, return on investment, cash flow.
- v. Opening stocks reported by the petitioner has typographical error. The opening stock of the company was 36 MT, whereas the company has reported opening stock as NIL.

- w. There is a typographical error in the depreciation figure for 2008-09. The corrected figure shows that depreciation charged for the product under consideration has in fact declined.
- x. It is not understood how inability of the domestic industry to meet the demand will lead to injury. The performance of the domestic industry on account of production, domestic sales and capacity utilization would not have deteriorated due to its inability to meet the demand. The performance of the domestic industry would have at the least improved on these accounts in a situation where the domestic industry is not able to meet the demand in the Country.
- y. It cannot be said that the small size industry does not have right to seek protection under dumping law. Moreover, the overall market size for the product is more than Rs. 16 crores.
- z. The purpose of anti dumping duty, in general, is to eliminate injury caused to the Domestic Industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country.
  - aa. No grounds have been made out for termination of the investigations. The product constitutes an insignificant proportion in the consumer's overall business.
  - bb. Product under consideration is produced only in India, China, US and Germany. Should the domestic industry not be protected at this stage, the domestic industry will decline further and the petitioner shall be eventually forced to exit from the product. The law has been created to protect legitimate interests of the domestic industry.
  - cc. It is well established practice of the Authority to call for DGCI&S data. Even if the petitioner's data based on DGCI&S is not considered, the Designated Authority would follow its own process of calling DGCI&S data and relying on the same. It is also relevant to point out that quality and quantity of evidence improves as an investigation progresses. It is relevant to point out in this regard to the WTO decision in the matter of Panel Report in the matter of Guatemala – definitive anti-dumping measures on grey portland cement from Mexico WT/DS156/R.
  - dd. The petitioner is capable of meeting the Indian demand. Imports have not increased due to possible inability of the domestic industry to meet the demand of the product in the Country. Imports have increased due to significant price difference between the domestic price and imported product price.
  - ee. Inability of the domestic industry to meet the Indian demand cannot prevent the petitioner from seeking relief against dumped imports. The domestic industry suffered significant decline in capacity utilization from the base year. When existing capacities itself remained unutilized, injury to the domestic industry could not have been due to inability of the domestic industry to match up the demand with rise in capacities.
  - ff. Information on shutdown hours and inventories with the domestic industry. clearly establish that the domestic industry sales volumes have suffered because of lack of orders from the domestic market. The domestic industry could have

easily supplied the material from inventories or by utilizing the unutilized capacities.

- gg. It is presumptive on the part of importer that the capacity expansion was for export markets. In fact, the domestic industry is predominantly in domestic market. In any case, the domestic industry suffered loss of production and was faced with rising inventories.
- hh. The company did not suffer so significant injury earlier as the company is now suffering. Because the company did not take action at that point in time does not mean that the company is now prevented from taking action.
- ii. Post disclosure, they have reiterated their submissions on injury and causal link. On the issue of import data, they have denied the fact that changes were made in the petition without giving an opportunity to interested parties to comment and cost of production of the domestic industry is very high because of lower production. They have again denied the submissions made by the importers that they are unable to support the domestic demand of the subject goods. The domestic industry has requested in his post disclosure comments to impose anti-dumping duties on fixed quantum basis. They have cited the reasons for imposition of fixed duty as possible circumvention of anti-dumping duty, lack of mechanisms by the custom port authorities to ensure correctness of import price reported by an importer and significant changes in the cost of production of the product with changes in the cost of inputs. They have also requested that the anti-dumping duty to be imposed in US \$ citing the fact that rupee has depreciated significantly.

#### **View of the Importers/consumers and other interested parties**

- 47. Submissions made by importers/consumers and other interested parties with regard to injury to the domestic industry are as follows:
  - i. Domestic industry has not suffered any injury on account of the imports of subject goods.
  - ii. Domestic industry is not capable enough to cater the domestic demand.
  - iii. Domestic industry was able to achieve 88% of capacity utilization, irrespective of inflow of imports and newly added capacities until 2010-11. It is only in the POI wherein the capacity utilization decline. Injury needs to be shown over the span of the injury period hence there is no causal link between imports and injury.
  - iv. Profits of the domestic industry were increasing till the year 2010-11, inspite of gradual increase in imports from subject countries. This clearly shows absence of causal link between imports and injury.
  - v. Domestic industry's interest cost has increased substantially in the POI despite increase in capacity utilization. It appears that capacity expansion has largely been

funded by debt having a bearing on increasing cost of production per MT which can not be linked with the imports.

- vi. Domestic industry's depreciation cost is 142% higher in the POI compared with the base year 2008-09 having a positive bearing on cost of production which cannot be linked with the imports. Sudden decrease on depreciation indicates disposal of physical assets which needs to be examined.
- vii. Domestic industry has not increased its capacity in proportion to the increase in total demand the domestic market. It increased its capacity with 25% whereas demand increased by 65%.
- viii. Domestic industry profits declined in the year 2009-10 when the landed imports were priced highest at Rs 66.54.
- ix. It is the fall in the export demand that is hurting the petitioner the most during POI. Imports cannot be blamed for fall in capacity utilization because of fall in exports.
- x. It was only during POI that there was a loss and a negative ROCE. One cannot take the loss alleged to have been suffered during the POI alone to come to a conclusion that the domestic industry has suffered material injury. Reference to decision of CESTAT in the matter of Indian Spinners Association vs. Designated Authority 2004 (170) E.L.T. 144 (Tri. - Del.).
- xi. During 2008-09, the production of the petitioner was 1288 MT, whereas the sales during the same period were 1319 MT. However, it can be seen that opening stock of the petitioner during 2008-09 was nil.
- xii. No correlation between capacity, depreciation and Net Fixed Assets.
- xiii. Causal link is missing. The domestic industry has failed to provide evidence to show that such lower priced imports actually caused injury to them. The main reason for the injury to the domestic industry is their inability to cater the needs of the user at the time of high demand.
- xiv. The overall value of the industry in India is not more than Rs.6.50 crores to Rs.7.00 crores. Considering the miniscule size of the market, DGAD should consider whether it is worthwhile to impose a protective measure in such minor products also.
- xv. The injury to the petitioner is due to dismal export performance and very poor performance of the other products produced and sold by the petitioner.
- xvi. The effects of injury are not demonstrated in terms of the parameters set out in paragraph (iv) of the Annexure II of the rules made in this behalf.
- xvii. Domestic Industry has not only changed data with respect to imports but has also made amendments to its own data in the paper book.
- xviii. The Domestic Industry is unable to support the domestic demand of the subject goods thus warranting the import of the subject goods. During the Period of Investigation the domestic demand was 2042 MT whereas, the domestic

- production decreased to 804 MT. Since the domestic industry is a monopolist, this gap in demand and supply could only be bridged by imports from subject country.
- xix. The focus of the domestic industry has been on export sales. The reason for the focus of the domestic industry on export sales is high returns on investment as opposed to domestic sales.
  - xx. Domestic Industry included additional capacities in the year 2010-11, however the same was to cater to the export market and not the domestic market. In the year 2010-11 the export sales was increased from 392 MT to 760 MT. Thus, it is quite clear that the Domestic Industry added capacity to cater to the export sales and not domestic sales and cannot now claim injury on account of loss of market share due to increase in imports from China.
  - xxi. The surge of imports was in the year 2009-10, when the subject imports increased from 216 MT to 1234 MT. Why the instant petition was not filed for the year 2009-10 and was filed when the quantum of imports from subject countries remained more or less the same.
  - xxii. Along with 48% decline in Domestic Sales the Domestic Industry has also suffered 163% decline in its Exports Sales. The loss of profit due to decrease in exports sales can in no way be attributable to imports of subject goods.
  - xxiii. Import quantity as reported by the petitioner is different in all the submissions made by the petitioner.
  - xxiv. One cannot take the loss alleged to have been suffered during the POI alone to come to a conclusion that the domestic industry has suffered material injury.
  - xxv. Post disclosure, one of the importers has requested the Authority to adjust cost of production of the petitioner by taking the appropriate cost of conversion of common salt and water into sodium chlorate for the purpose of determination of NIP.
  - xxvi. Post disclosure, one of the importer has submitted that the domestic industry is suffering injury because of own reasons and dumping has no relation to the injury caused to the domestic industry. Further, it has been stated that the domestic industry is a monopolist and imposition of ADD would lead to undue benefit to the domestic industry. They have requested the Authority to impose ADD on reference price basis.

#### **Examination by the Authority**

- 48. The Authority has taken note of various submissions of the interested parties on injury to the domestic industry and has analyzed injury to the domestic industry considering the facts available on record and applicable law as follows. The submissions made by the interested parties have been considered to the extent found pertinent and have been examined below and in the relevant sections of these findings.

49. As regards the argument that considering the miniscule size of the market, Authority should consider whether it is worthwhile to impose a protective measure in such minor products, it is noted that the anti dumping duty levied is to eliminate unfair trade practices and to provide the domestic industry a fair opportunity to compete in the market. Antidumping law does not distinguish the domestic industry on account of its market size and turnover. The right to seek protection under antidumping law cannot be curtailed on such grounds.
50. As regards the argument that the injury to the domestic industry is on account of deterioration in export performance, it is noted that the finding is based on the performance of the domestic industry in the domestic market alone. Performance in the export market has been excluded. The analysis of the injury parameters shows that the imports have increased significantly during the injury period. It is also noted that performance of the domestic industry in exports was almost similar over the injury period, except for 2010-11, when the exports were high. Further, price parameters of the domestic industry deteriorated in 2010-11, when exports were higher. It is thus not established that the claimed injury to the domestic industry is because of exports performance.
51. As regards the argument that the Domestic Industry added capacity to cater to the export sales in 2010-11, it is noted that the domestic industry has significant unutilized capacities. The domestic industry could have produced and sold significantly higher volumes in the domestic market even after the present exports made by the company.
52. As regards the argument that the Domestic Industry is unable to support the domestic demand of the subject goods, it is noted that the domestic industry can meet almost the entire Indian demand. Further, anti dumping measure is not an instrument to restrict imports but to permit the same by providing a level playing field to both the subject exporters and the Domestic Industry. With regard to request of the importer to adjust cost of production of the petitioner by taking the appropriate cost of conversion of common salt and water into sodium chlorate for the purpose of determination of NIP, it is noted that NIP has been determined as per the Annexure III of the anti dumping rules.
53. Rule 11 of the AD Rules read with its 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....” While 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.

54. 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 AD Rules.
55. Annexure-II of the AD Rules provides for an objective examination of both, (a) the volume of dumped imports and the effect of the dumped imports on prices, in the domestic market, for the like articles; and (b) the consequent impact of these imports on domestic producers of such articles. With regard to the volume effect of the dumped imports, the Authority is required to examine whether there has been a significant increase in dumped imports, either in absolute term or relative to production or consumption in India. With regard to the price effect of the dumped imports, the Authority is required to examine whether there has been significant price undercutting by the dumped imports as compared to the price of the like product in India, or whether the effect of such imports is otherwise to depress the prices to a significant degree, or prevent price increases, which would have otherwise occurred to a significant degree.
56. As regards the impact of the dumped imports on the domestic industry. Para (iv) of Annexure-II of the AD Rules states as follows:

*“The examination of the impact of the dumped imports on the domestic industry concerned shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the Industry, including natural and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of margin of dumping actual and potential negative effects on cash flow, inventories, employment wages growth, ability to raise capital investments.”*

57. For the examination of the impact of imports on the domestic industry in India, the Authority has considered such indices having a bearing on the state of the industry as production, capacity utilization, sales quantum, stock, profitability, net sales realization, the magnitude and margin of dumping etc. in accordance with Annexure II(iv) of the Rules supra.

Demand and market share

58. For the purpose of assessment of the domestic consumption/demand of the subject goods, the sales volume of domestic industry and other Indian producer have been added to the total imports into India and the same has been summarized below:

SN	Particulars	Units	2008-09	2009-10	2010-11	POI
1	Sales of Domestic Industry	MT	1,023	770	872	481
2	Subject country-Imports	MT	628	1159	1244	1427
3	Total demand/consumption	MT	1,651	1,929	2,116	1,908

59. It is noted that the demand has shown a positive trend throughout the injury period.
60. Indian Explosive has contended that the domestic industry is not capable of meeting the Indian demand. It is however noted that the domestic industry can meet substantial part of the domestic demand. In any case, inability of the domestic industry to meet the domestic demand cannot prevent the domestic industry from seeking protection under the Rules, as the purpose of anti dumping duty is not to restrict imports but to allow the same at prices which will not cause injury to the domestic industry.

### G. Volume Effects of Dumped Imports

#### Import Volume and Market Share

61. With regard to the volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India. For the purpose of injury analysis, the Authority has relied on the import data procured from DGCIS. The volume of imports of the subject good from the subject country have been analyzed as under:

SN	Particulars	Units	2008-09	2009-10	2010-11	POI
1	Total Imports	MT	628	1,159	1,244	1,427
2	China	MT	628	1,159	1,244	1,427
3	Market Share in Demand					
4	Sales of Domestic Industry	%	61.97	39.92	41.21	25.21
5	Subject country	%	38.03	60.08	58.79	74.79
6	<i>Total</i>	%	100.00	100.00	100.00	100.00
7	Chinese import in relation to production	%	48.76	99.40	70.80	177.49

62. It is noted that:
- i. Imports have increased in absolute terms from 628 MT in base year to 1,427 MT in POI, showing an increase of 127% over the injury period. The increase is considered significant and material.
  - ii. While the demand for subject goods increased by about 16% in POI as compared to base year, the volume of imports from subject country increased by about 127% during the corresponding period. The increase in imports in absolute terms is disproportionately higher than the increase in demand of the product in the Country.

- iii. Imports of subject goods from the subject country have increased in relation to the production of the subject good in India, showing 129% increase over the injury period.
  - iv. The market share of the subject country in demand of the product in India has increased, whereas the market share of the domestic industry has declined, despite domestic industry being the sole producer of the subject goods in the domestic market. Market share of China PR increased from 38% in base year to 75% in POI, showing 37% increase over the injury period.
63. It is thus noted that the imports of the product under consideration have increased in absolute terms as also in relation to production and consumption of the product in the Country. It is thus noted that the imports from subject country show significant adverse volume effect.

#### **H. Price effect of imports**

64. With regard to the effect of the dumped imports on prices, the Designated Authority is required to consider whether there has been a significant price undercutting by the dumped imports as compared with the price of the like products in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. The impact of dumped imports on the prices of the domestic industry has been examined with reference to the price undercutting, price suppression and price depression, if any.

#### **Price undercutting**

65. In order to determine whether the imports are undercutting the prices of the domestic industry in the market, the Authority has compared landed price of imports with net sales realization of the domestic industry. Authority has determined net sales realization considering selling price, excluding taxes & duties, rebates, discounts & commissions. Entire domestic sales volumes of the domestic industry have been included in the calculations. Landed price of imports has been determined considering weighted average CIF import price, with 1% landing charges and applicable basic customs duty. The comparison was done between net sales realization and landed price of imports. The Authority has determined price undercutting by the dumped imports.
66. The Authority notes that from 2009-10 onwards, the landed prices of the subject goods are significantly below the selling price of the domestic industry which suggests significant price undercutting being caused by the imports of subject goods from subject country as apparent from the following table.

Particulars	Unit	2008-09	2009-10	2010-11	2011-12 (POI)
Landed price of imports	Rs./KG	71.26	61.07	59.03	62.81
Net Selling Price	Rs./KG	***	***	***	***
Index		100	112	107	103
Price Undercutting	Rs./KG	***	***	***	***
Price Undercutting (%)	%	***	***	***	***
Price Undercutting (%) Range		0-10	20-30	20-30	10-20

67. The Authority notes that the landed price of subject imports of the subject goods are significantly below the selling prices of the domestic industry, resulting in significant price undercutting.

#### **Price-underselling**

68. From the table given below, the Authority notes that there is positive price underselling effect:

Country/exporter	Unit	China
Landed Price	Rs./kg	62.81
Non Injurious Price	Rs./kg	***
Price underselling amount	Rs./kg	***
Price underselling %	%	***
Price underselling % Range		10-20

#### **Price suppression/depression**

69. 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 to a

significant degree, the Authority considered the changes in the costs and prices over the injury period. Table below shows the factual position.

SN	Particulars	Unit	2008-09	2009-10	2010-11	POI
1	Cost of Sales	Rs./Kg	***	***	***	***
	Index		100	108	102	121
2	Selling Price	Rs./Kg	***	***	***	***
	Index		100	112	107	103

70. It is seen that there was increase in both cost of sales as well as selling price over the period (barring 2010-11). However, the increase in selling price was lower as compared to the increase in the costs. It is thus seen that the domestic industry has not been able to increase its selling price commensurate with increase in the cost of sales. It is thus seen that the effect of dumped imports was to prevent price increases which otherwise would have occurred to a significant degree.

#### **I. Economic parameters of the domestic industry**

71. 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.
72. The various injury parameters relating to the domestic industry are discussed herein below:

i. Production, capacity and capacity utilization of the Domestic Industry

Situation of the domestic industry with regard to production, capacity and capacity utilization was as follows:

Particulars	Unit	2008-09	2009-10	2010-11	POI
Installed capacity	MT	1,600	1,600	2,000	2,000
Production	MT	1,288	1,166	1,757	804
Capacity Utilization	%	80%	73%	88%	40%
Domestic Sales	MT	1,023	770	872	481
Total Demand	MT	1,651	1,929	2,116	1,908

73. The Authority notes that sales of the domestic industry declined significantly from 1023 MT to 481 MT whereas the demand for the product under consideration increased from 1651 MT to 1908 MT over the period. Thus, the sales of the domestic industry declined by 53% when demand for the product under consideration increased by 16%. This is in a situation when the domestic industry is the sole producer of the subject goods in the country. The Authority also notes that the low capacity utilization is not only on account of the decrease in domestic sales but also on account of declined in exports.
74. The domestic industry has contended that it has increased its capacity so that it is able to cater the growing demand. However, it is noted that capacity utilization declined from 80% in the base year to 40% in the POI showing a 50% decline.
75. Production of the domestic industry declined from 1288 MT (2008-09) to 804 MT (POI) thus showing about 38% decline over the period. Further, it is noted that the production had increased to 1757 MT in 2010-11 and then declined to 804 MT, thus showing a decline of 54% decline in POI as compared to 2010-11.

ii. Market share:

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

Demand	UOM	2008-09	2009-10	2010-11	POI
Market Share in Demand					
Domestic Industry	%	61.97	39.92	41.21	25.21
Subject country	%	38.03	60.08	58.79	74.79
Total	%	100	100	100	100

77. It is noted that market share of the domestic industry declined over the injury period, whereas the market share of Chinese imports have shown a significant increase. The market share of the domestic industry shows a decline of about 37% during POI as compared to the base year.
78. It has been contended that domestic industry failed to match up its capacity with the increase in demand and decrease in market share is due to their incapability to match up the same. Comparison of capacity with the domestic industry and enhancement in the capacity with the growth in demand, however, shows that the capacity additions by the domestic industry were in line with present and potential demand for the product in the country. It is not established that decline in market share is due to inability of the domestic industry to produce and sell the product. It is also noted that the domestic industry faced significant decline in capacity utilization & sales volumes.

iii. Profits, return on investment and cash flow

79. The cost of sales, selling price and profit/loss of the domestic industry has been analysed as follows:

Particulars	Unit	2008-09	2009-10	2010-11	POI
Cost of sales	Rs./Kg	***	***	***	***
Index		100	108	102	121
Selling price	Rs./Kg	***	***	***	***
Index		100	112	107	103
Profit/Loss	Rs./Kg	***	***	***	***
Index		100	168	167	(105)
Profit/Loss	Rs. Lacs	***	***	***	***
Index		100	127	143	(49)
Profit before Interest and Tax	Rs. Lacs	***	***	***	***
Index		100	102	107	(3)
Cash Profit	Rs. Lacs	***	***	***	***

Index		100	91	94	5
Capital employed	Rs. Lacs	***	***	***	***
Index		100	175	150	124
Return on investment	%	***	***	***	***
Index		100	59	72	(2)

80. It is noted that the profits of the domestic industry increased upto 2010-2011 and thereafter have shown a significant decline during POI. It is also noted that whereas cost of sales increased during the POI, selling price declined in the POI as compared to the previous year during the corresponding period. Resultantly, profitability of the domestic industry declined significantly and the domestic industry suffered financial losses in the POI.
81. As a result of decline in profits, the return on investment and cash profits declined significantly over the injury period. Return on investment and cash profits of the domestic industry declined to such an extent that the domestic industry suffered negative return on investment in the POI.
82. Interested parties have argued that petitioner has not suffered losses or financial injury. The Authority, however, notes that the verified information concerning cost of production, selling price and profit & loss of the domestic industry shows that the domestic industry has suffered financial losses.
83. As regards the argument that decline in profits is due to increase in depreciation and interest cost, it is noted that there is no abnormal increase in cost on account of interest and depreciation. During the process of investigation, it was noted that there was a typographical error in the amount of depreciation reported in injury statement. It is also noted that profit before interest and depreciation has also shown decline which clearly establishes that the decline in profits is not due to increase in depreciation and interest cost.

**iv. Inventories:-**

84. The data relating to inventory of the subject goods are shown in the following table:

SN	Particulars	Unit	2008-09	2009-10	2010-11	POI
1	Opening stock	MT	***	***	***	***

2	Closing Stock	MT	***	***	***	***
3	Average Stock	MT	21	7	72	121

85. It is noted that inventories with the Domestic Industry shows significant increase with the increase in the volume of dumped imports. Inventories with the domestic industry are significant in the POI even when the demand for the subject goods has increased. Further, increase in inventories is despite decline in production.

v. Employment and wages

86. The position with regard to employment and wages is as follows:

Company as whole

SN	Particulars	Unit	2008-09	2009-10	2010-11	POI
1	Number of employees	No.	***	***	***	***
	Index		100	142	182	182
2	Wages	Rs. Lacs	***	***	***	***
	Index		100.00	181.79	273.56	500.94

87. Since the domestic industry does not have dedicated employment for the product under consideration, situation of the domestic industry with regard to employment and wages paid by the domestic industry was examined by considering information for the company for all operations. It is noted that both employment and wages show increase over the period.

vi. Productivity

88. Data relating to productivity shows as follows:

SN	Particulars	Unit	2008-09	2009-10	2010-11	POI
1	Productivity per day	MT	***	***	***	***
	Index		100	75	125	50

89. It is noted that productivity in terms of production per day has declined in the POI as compared to base year as well as previous year. The decline in productivity could be attributed to decline in production as a result of dumping of the product under consideration.

vii. Magnitude of Dumping

90. Magnitude of dumping as an indicator of the extent to which the dumped imports can cause injury to the domestic industry shows that the dumping margin determined against the subject countries are above de minimis and significant.

viii. Factors affecting domestic prices

91. Consideration of the import prices from China, change in the cost structure, competition in the domestic market, factors other than dumped imports that might be affecting the prices of the domestic industry in the domestic market show that the landed value of imported material from China is significantly below the selling price of the domestic industry, causing significant price undercutting in the Indian market. The benchmark for the domestic industry is the import prices from subject country. There are negligible imports of the product under consideration from other countries. There is no viable substitute to this product. Demand for the product was showing significant increase and could not have been a factor responsible for price suppression faced by the domestic industry. It is thus evident that the only factors responsible for the domestic industry prices are the import prices of the product from China PR and the cost of production of the domestic industry. As the information shows, whereas the cost of production increased, the import prices much lower than the domestic prices prevented the domestic industry from increasing their prices in line with the increase in the cost.

ix. Growth

92. There has been significant growth in the import volumes of the subject goods from the subject country. The growth of the domestic industry in terms of sales and production was negative. Similarly, growth of the domestic industry in respect of profits, cash profit, and return on investment was also negative. Despite significant increase in demand and the domestic industry being the sole producer of the subject goods, the domestic industry is facing negative growth.

## **J. Conclusion on material injury**

93. It is concluded that the dumped imports of the subject goods from the subject country have increased significantly in absolute terms as also in relation to production and consumption of the subject goods in India. Imports of the subject goods from subject country are significantly undercutting the prices of domestic industry. The imports are causing significant price suppression. With regard to consequent impact of the dumped imports on the domestic industry, it is concluded that the performance of the domestic industry has deteriorated in respect of production, capacity utilization, domestic sales, market share, profit, cash flow, return on investment, productivity and inventories, which is significant and material. Thus the Authority concludes that the domestic industry has suffered material injury.

## **K. Other Known Factors & Causal Link**

94. 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 by the Authority to see whether any other factor, other than the dumped imports could have contributed to injury to the domestic industry, as follows:-

### **(a) Volume and prices of imports from third countries**

95. There are no imports from of product under consideration from other countries. Imports from other countries have also caused injury to the Domestic Industry.

### **(b) Contraction of demand and changes in the pattern of consumption.**

96. There has been a constant rise in demand of the product concerned throughout the injury period. Possible decline in demand is not as a possible reason of injury to the Domestic Industry.

### **(c) Developments in technology:**

97. Technology for production of the product concerned has not undergone any change. Thus, developments in technology is not a factor causing injury to the domestic injury.

### **(d) Trade restrictive practices of and competition between the foreign and domestic producers**

98. There is no trade restrictive practice, which could have contributed to the injury to the Domestic Industry

**(e) Export performance of the domestic industry**

99. The injury information provided to the Authority is for domestic operations and therefore possible decline in exports volume could not have caused claimed injury to the Domestic Industry

**(f) Productivity of the Domestic Industry**

100. It is noted that the productivity of the domestic industry in terms of production per employee has declined over the period as a result of decline in production. The decline in production is due to increase in the imports of the product in the Country.
101. Indian Explosives Ltd disputed the claim of the petitioner that factors other than imports from China PR are not responsible for injury to the domestic industry. It is, however, noted that IEL has not given any evidence in support of their claim that factors other than dumped imports have also caused injury. Further, the investigation has not shown existence of any significant factor other than dumped imports which could have caused injury to the domestic industry.
102. It is thus noted that listed known other factors do not show that the domestic industry could have suffered injury due to these other factors. The Authority examined whether the dumping of the product has caused injury to the domestic industry. The following parameters show that injury to the domestic industry has been caused by dumped imports:
- a) The volume of dumped imports from the subject country increased sharply resulting in increase in the share of dumped imports in demand of the product in India. Consequently, the domestic industry lost its market share.
  - b) The imports were significantly undercutting the prices of the domestic industry. Resultantly, the domestic industry was not able to increase its prices in line with the increase in the costs. Imports were thus resulting in price suppression being faced by the domestic industry.
  - c) Imports of the product under consideration were undercutting the domestic prices, as a result of which the volume of imports increased. Resultantly, the domestic industry faced decline in production, capacity utilization and sales volumes.
  - d) Performance of the domestic industry with regard to profits, cash flow and return on investments deteriorated. Thus, dumping of the product has led to deterioration in performance of the domestic industry in terms of profits, cash flow and return on investments.
  - e) The domestic industry is faced with significant increase in inventories.

103. It is therefore, concluded that the domestic industry suffered material injury due to dumped imports of subject goods from subject country.

**L. Magnitude of Injury and Injury Margin**

**Injury Margin**

104. The non-injurious price of the subject goods produced by the domestic industry determined has been compared with the landed value of the exports from the subject country for determination of injury margin during POI. The injury margin determined are as under:-

	Rs/kg	USD/kg
Non injurious price	***	***
Landed value	***	***
Injury margin	***	***
Injury margin %	***	***
Injury margin % Range	10-20	10-20

**Conclusions**

105. After examining the issues raised and the submissions made by the interested parties and facts made available before the Authority, the Authority concludes that:

- a. The subject goods have entered the Indian market from the subject country below associated normal values, thus resulting in dumping of the subject goods;
- b. The dumping margins of the subject goods imported from the subject country is above de-minimis;
- c. The domestic industry has suffered material injury in respect of the subject goods; and
- d. The material injury to the domestic industry has been caused due to dumped imports of the subject goods from the subject country.

**Indian industry's interest & other issues:**

106. The Authority recognizes that the imposition of anti-dumping duties might affect the price levels of the product in India. However, fair competition in the Indian market will not be reduced by the imposition of anti-dumping measures. On the contrary, imposition of anti-dumping measures would remove the unfair advantages gained by dumping practices, prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods. The purpose of anti-dumping duties, in general, is to eliminate injury caused to the Domestic Industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is

in the general interest of the country. Imposition of anti dumping duties, therefore, would not affect the availability of the product to the consumers. The Authority notes that the imposition of the anti-dumping measures would not restrict imports from the subject country in any way, and therefore, would not affect the availability of the product to the consumers. The consumers could still maintain two or even more sources of supply.

107. With regard to the contention of Solar Industries India on adverse effect of imports on the consumer industry, the authority notes that no verifiable information has been provided to establish significant adverse effect of the proposed duty on user industry. It is also noted that imports for exports have been exempted by Government of India without payment of anti dumping duty under Duty Exemption Scheme and therefore proposed anti dumping duty shall not impact these imports.

### **Recommendation**

108. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the domestic industry, exporters, importers and other interested parties to provide positive information, *inter alia*, on the aspects of dumping, injury and causal link. Having initiated and conducted a detailed investigation into dumping, injury and the causal link thereof in terms of the anti-dumping rules and having established positive dumping margins as well as injury to the domestic industry caused by such dumped imports, the Authority is of the view that imposition of definitive duty is required to offset dumping of subject goods into India and consequent injury caused to domestic industry. Taking into account the factual matrix of the case and submissions made by various interested parties, it is considered appropriate to recommend anti dumping duty by way of fixed quantum basis in US \$. Therefore, the Authority considers it necessary and recommends imposition of definitive anti-dumping duty on imports of the subject goods from the subject country in the form and manner described hereunder.
109. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of definitive anti-dumping duty equal to the lesser of the margin of dumping and the margin of injury, so as to remove the injury to the domestic industry. Accordingly, definitive anti-dumping duty as per amount specified in Col 9 of the table below is recommended to be imposed from the date of this notification in the event of acceptance of these recommendations by the Central Government, on all imports of the subject goods originating in or exported from the subject country.

Table

<b>S N</b>	<b>Headings</b>	<b>Description of goods</b>	<b>Specific ation</b>	<b>Countr y of origin</b>	<b>Countr y of export</b>	<b>Prod ucer</b>	<b>Export er</b>	<b>Amou nt</b>	<b>Unit of mea sure ment</b>	<b>Cur renc y</b>
<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>
<b>1</b>	<b>282 990 10</b>	<b>Sodium Perchlorate</b>	<b>All Grades</b>	<b>People's Republic of China</b>	<b>Any</b>	<b>Any</b>	<b>Any</b>	<b>0.23</b>	<b>Kg</b>	<b>US\$</b>
<b>2</b>	<b>282 990 10</b>	<b>Sodium Perchlorate</b>	<b>All Grades</b>	<b>Any</b>	<b>People's Republic of China</b>	<b>Any</b>	<b>Any</b>	<b>0.23</b>	<b>Kg</b>	<b>US\$</b>

110. Landed value of imports for the purpose shall be the assessable value as determined by Customs under the Customs Act, 1962 and all duties of customs except duties levied under Sections 3, 3A, 8B, 9 and 9A of the Customs Tariff Act, 1975.

111. An appeal against this order shall lie before the Customs, Excise and Service tax Appellate Tribunal in accordance with the relevant provisions of the Act.

(J S Deepak)  
Designated Authority