

**TO BE PUBLISHED IN PART 1 SECTION-1 OF  
THE GAZETTE OF INDIA- EXTRAORDINARY**

Government of India  
Ministry of Commerce & Industry  
Department of Commerce  
Directorate General of Anti-Dumping & Allied Duties  
4th Floor, Jeevan Tara Building, Parliament Street, New Delhi

Dated the 10<sup>th</sup> August, 2017

**FINAL FINDINGS**

**Subject: Anti-dumping duty investigation on the imports of Sodium Chlorate originating in or exported from Canada, China PR and EU.**

No.14/13/2015 - DGAD: Having regard to the Customs Tariff Act 1975, as amended from time to time (hereinafter also referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules 1995, as amended from time to time (hereinafter also referred to as the Rules) thereof;

**A. BACKGROUND OF THE CASE**

1. Whereas M/s Gujarat Alkalies and Chemicals Limited and Teamec Chlorates Limited (hereinafter referred to as 'petitioners') had filed an application (also referred to as petition) before the Designated Authority (hereinafter referred to as the Authority) in accordance with the Customs Tariff Act, 1975 as amended from time to time (hereinafter referred to as the Act) and Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped articles and for Determination of injury) Rules, 1995 as amended from time to time (hereinafter referred to as the AD Rules) for initiation of anti-dumping investigation concerning imports of "Sodium Chlorate" (hereinafter referred to as subject goods or product under consideration) originating in or exported from Canada, People's Republic of China and EU (hereinafter referred to as subject countries).

**B. PROCEDURE**

2. The procedure as described herein below has been followed:
  - a. The Authority under the above Rules, received a written application from the petitioner on behalf of domestic industry of subject goods, alleging dumping of subject goods originating in or exported from subject countries

- and resultant injury to the domestic industry and requesting recommendations for imposition of antidumping duty on imports of the subject goods from the subject countries.
- b. On the basis of sufficient prima facie evidence of dumping of the subject goods, originating in or exported from the subject countries, injury to the domestic industry and a causal link between the alleged dumping and injury, the Authority initiated an investigation into the alleged dumping and consequent injury to the domestic industry in terms of Rule 5 of the Rules to determine the existence, degree and effect of the alleged dumping of subject goods from the subject countries and to recommend an amount of antidumping duty, which if levied on the imports of Sodium Chlorate, would be adequate to remove the 'injury' to the domestic industry..
  - c. The Authority notified the Embassies/Representatives of the subject countries in India about the receipt of the anti-dumping application before proceeding to initiate the investigations in accordance with sub-rule (5) of Rule 5 supra.
  - d. The Authority issued a public notice dated 12th May, 2016 published in the Gazette of India, Extraordinary, initiating anti-dumping investigation against imports of the subject goods from the subject countries.
  - e. The Authority forwarded a copy of the public notice to all the known importers and users association of the subject goods in India and advised them to make their views in writing within forty days from the date of the letter.
  - f. The Authority provided a copy of the non-confidential version of application filed by the petitioner to the known exporters and the Embassies of the subject countries in India in accordance with Rule 6(3) of the AD Rules. A copy of the application was also provided to interested party whenever requested.
  - g. The Authority sent questionnaires to elicit relevant information to the following known exporters of subject goods in the subject countries in accordance with Rule 6(4) of the AD Rules.
    - a. M/s. Akzo Nobel Pulp and Performance Chemicals
    - b. M/s. Arkema France
  - h. In response to the initiation notification, the following exporters/producers have filed questionnaire response along with legal submissions as well.
    - a. M/s. Akzo Nobel Pulp and Performance Chemicals
    - b. M/s. Arkema France
  - i. Questionnaire was sent to the following known importers/users associations of subject goods in India calling for necessary information in accordance with Rule 6(4) of the AD Rules:
    - a. M/s Zenith Electrochem Pvt. Ltd.
    - b. M/s Bindals Paper Mills Ltd.
    - c. M/s K R Pulp and Papers Ltd.

- j. The following Importers/user associations have filed Importer Questionnaire in response to the Initiation notification:
- a. M/s Zenith Electrochem Pvt. Ltd.
  - b. M/s Bindals Paper Mills Ltd.
  - c. M/s K R Pulp and Papers Ltd.
  - d. M/s Indian Paper Manufacturers Association
  - e. M/s Bilt though filed a letter but did not file a questionnaire reply
- k. 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 all interested parties. The public file was inspected by a number of interested parties a number of times. Interested parties, who requested inspection and copies of the documents from the public file, were provided with the same.
- l. The Authority accepted the confidentiality claims, wherever warranted after due examination and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on a confidential basis, which was made available through public file.
- m. Further information was sought from the petitioner and other interested parties to the extent deemed necessary. Verification of the data provided by domestic industry was conducted to the extent considered necessary for the purpose of present investigation.
- n. Investigation was carried on for the period October, 2014- December, 2015 (15 months) (hereinafter referred to as the 'period of investigation' or 'POI') with injury analysis covering the period 2012-2013, 2013-2014, 2014-2015 and the POI.
- o. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of imports of subject goods for the past three years, and the period of investigation, and the said information was obtained from the DGCI&S and has been adopted for the purpose of the present investigation.
- p. The Authority has examined the information furnished by the domestic industry to the extent possible on the basis of guidelines laid down in Annexure III of the AD Rules to work out the cost of production and the non-injurious price of the subject goods in India so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.
- q. In accordance with Rule 6(6) of the Rules, the Authority provided opportunity to all interested parties to present their views orally in a public hearing held on 10<sup>th</sup> April 2017 which was attended by various parties. All the parties who presented their views in the oral hearing were requested to

- file written submissions of these views for mutual exchange with opposing interested parties for filing rejoinders thereafter by others.
- r. The submissions made by the interested parties during the course of this investigation, wherever found relevant, have been addressed by the Authority, in this document.
  - s. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non confidential version of the information filed on confidential basis.
  - t. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has considered such parties as non-cooperative and recorded the findings on the basis of the facts available.
  - u. The Authority issued a disclosure statement under Rule 16 on 27<sup>th</sup> July, 2017 and provided an opportunity to give comments to the disclosure statement till 7<sup>th</sup> August, 2017.
  - v. In this Final Findings, \*\*\* represents information furnished by the interested parties on confidential basis, and so considered by the Authority under the AD Rules.
  - w. The exchange rate for the POI has been taken by the Authority as Rs.64.17 = 1 US\$.

## **C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE**

### **C.1 Views of the Domestic industry**

3. The views of the domestic industry are as follows:
  - a. The product under consideration in the present investigation, Sodium Chlorate, is an inorganic compound classified under Chapter 28 of the Customs Tariff Act. Sodium Chlorate, with its chemical formula  $\text{NaClO}_3$  is a white crystalline powder that is readily soluble in water. It is hygroscopic. It decomposes above 300 °C to release oxygen and leave sodium chloride.
  - b. The main commercial use for Sodium Chlorate is for making chlorine dioxide ( $\text{ClO}_2$ ). The largest application of  $\text{ClO}_2$ , which accounts for about 95% of the use of chlorate, is in bleaching of pulp. All perchlorate compounds are produced industrially by the oxidation of solutions of sodium chlorate by electrolysis.

- c. The subject goods fall under Chapter 28 of the Act under subheading no. 2829 11 00. However, the customs classification is indicative only and is in no way binding on the scope of the present investigation.
- d. There is no difference in Sodium Chlorate produced by the Indian industry and the product exported from the subject countries. Sodium Chlorate produced by the Indian industry and imported from the subject countries are comparable in essential product characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. Consumers can use and are using the two interchangeably. The two are technically and commercially substitutable. Sodium Chlorate produced by the domestic industry should be treated as like article to the Sodium Chlorate imported from the subject countries in accordance with the Anti-dumping Rules.

### **C.2. Views of the other interested parties**

4. None of the importers, consumers, exporters and any other interested party has made any submissions with regard to product under consideration, and like article.

### **C.3. Examination by the Authority**

5. The product under consideration is "Sodium Chlorate", an inorganic compound with the chemical formula  $\text{NaClO}_3$ . Sodium Chlorate is a white crystalline hygroscopic powder readily soluble in water. It decomposes above  $300\text{ }^\circ\text{C}$  to oxygen and sodium chloride. The normal commercial unit of measurement for the product under consideration is kilograms. It is quoted on the basis of weights, and sold in kilograms or MT universally.
6. Subject goods are classified under Chapter 28 of Customs Tariff Act, 1975 under the subheading 2829 11 00. The customs classification is indicative only and is in no way binding on the scope of the proposed investigations.
7. After considering the information on record, the Authority notes that there is no known difference in the subject goods produced by the domestic industry and that imported from the subject countries. The subject goods produced by the domestic industry and the subject goods imported from the subject countries 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 and are like articles. The consumers are using the two interchangeably. Thus, for the purpose of present investigation the subject goods produced by the

applicant in India are being treated as like article to the subject goods being imported from subject countries.

#### **D. SCOPE OF DOMESTIC INDUSTRY & STANDING**

##### **D.1. Views of the Domestic industry**

8. Following submissions have been made by the domestic industry with regard to scope and standing of the domestic industry:
  - a. The petition was filed by M/s Gujarat Alkalies and Chemicals Limited and Teamec Chlorates Limited. There are no other producers of Sodium Chlorate in the country. While Teamec Chlorates commenced commercial production in April 2012, GACL commenced commercial production in April 2014.
  - b. Production of petitioners constitutes a major proportion in Indian Production and therefore, the petitioners should be treated as “domestic industry” within the meaning of the Rules.
  - c. The petitioners have not imported the subject goods during the period of investigation, and further, are not related to any exporter or producer of the subject goods in China or any importer or user of the product under consideration in India within the meaning of Rule 2(b).
  - d. M/s Teamec started production in April 2012 and GACL commenced production in April 2014. Thus to this extent the domestic industry is a new entrant in the domestic market.
  - e. Chemfab Chlorates Ltd is petitioner’s own company and was closed in 2009. TCM Ltd has also winded up their operation long back. Further, both Both Chemofine and Triveni are consumers of Sodium Chlorate and not manufacturers. Travancore Cochin Chemicals Limited are doing contract manufacturing for ISRO and does not have any commercial activity in the domestic market No documentary evidence has been provided by the interested parties.

##### **D.2. Views of the other interested parties**

9. The following submission was made by the producers/exporters/importers/other interested parties in this regard.
  - a. Applicants are not the sole producers as the name of Travancore Cochin Chemicals Limited, Chemfab Chlorates, Chemofine Industries, Triveni Interchem Pvt. Ltd. has not been disclosed. Shree chlorates (Zenith Electrochem) still hold valid license to produce subject goods.
  - b. Acceptance by the authority of the applicant’s claim of accounting for 100% production is wrong as other producers are also present in the

- market. Chemfab Chlorates Ltd, TCM Ltd, Shree Chlorates, Chemofine Industries and TriveniInterchem Pvt. Limited are other domestic producers.
- c. The petitioners reached a significant production capacity only in 2015-16 and before that the production was not enough to meet the supply and thus cannot be called as domestic industry.
  - d. It has been elaborated in our submissions that there two more producers of subject goods in India and the DI is still claiming that they are the sole producers. The Authority should subject the statement of the DI in this respect to strict scrutiny. It cannot be a new standard in AD investigations that the applicants can make any wrong statement if they fulfill the thresholds required under Rule 2 (b). It is reiterated that Shree Chlorate (M/s Zenith Electrochem Pvt Ltd) (Capacity of 2500 MT/PA) and The Travancore Cochin Chemicals Limited (state PSU) (Capacity of 5000 MT/PA) are also producers having capacity to produce the subject goods in India.
  - e. In relation to the claim of the petitioners that they are the sole producers of the Product Under Consideration, it is submitted that the instant claim is factually wrong and is an attempt to seriously mislead the Authority. It may be recalled that the said contention was also raised by the interested parties during the public hearing dated 10.04.2017. However, no explanation for the same has been provided by the applicant in its written submission.
  - f. As provided by us in our written submissions dated 13.04.2017, it is evident that there are several other producers of the subject goods in India, a preliminary list of four other producers was also submitted by us in our written submissions. The Authority may kindly appreciate that it is for the applicant industry to provide correct and reliable information to the Authority in respect of their “standing” and the details of the Domestic Industry. With respect, it would not be procedurally appropriate or legally permissible to shift the onus on the interested parties who have given reasonable information to disprove the claim of the applicants with regard to the producers or the total production in the country.
  - g. It is evident that the Petitioners have deliberately withheld this critical information from the Authority in order to prove their standing to file the present application and to claim its status as domestic Industry in terms of Rule 5 and rule 2(b) respectively. In view of the fact that such misdeclaration by the applicants has a direct implication on the initiation of the investigation itself, we humbly request the Authority to kindly terminate the investigation as the applicants have not come with clean hands.
  - h. Without prejudice to the above, we also request the Authority that any new information received by the Authority subsequent to the hearing or that

which has not been kept in the public file prior to the hearing, may kindly be communicated to us to enable us to defend our interests appropriately. We also request the Authority to kindly provide us a fresh hearing after the basic information about the “standing” of the applicant is obtained and conveyed to us.

- i. M/s Indian paper manufacturer Association have stated that there are only two domestic producers of Sodium Chlorate, with approximately 20,000 MT of Sodium Chlorate being manufactured in India against which approximately 40,000 MT is consumed by the paper industry. There is a gap of approximately 20,000 MT which is filled by importing Sodium Chlorate from Canada, People’s Republic of China and EU as the domestic producers are not in a position to meet the domestic demand.

### **D.3. Examination of the Authority**

10. The application was filed by M/s Gujarat Alkalies and Chemicals Limited and Teamec Chlorates Limited claiming that they are the sole domestic producers. None of the petitioners have imported the subject goods nor are they related to importers or exporters of subject goods. Interested parties have argued that there are certain other producers who are producing the subject goods, however no basis or evidence has been provided to substantiate the same. It is also noted that none of the said domestic producers have responded in the ongoing investigation.
11. The Authority however notes that a major user association of PUC i.e. Indian Paper Manufacturers Association in their submissions have mentioned that there are only 2 domestic producers i.e. M/s Gujarat Alkalies & Chemicals Ltd. and M/s Teamec Chlorates Ltd. Therefore the Authority keeping in view this and that no opposition to the initiation by any interested party who has evidenced itself as a producer of PUC has been made, considered the petitioners as the eligible domestic industry within the meaning of Rule 2 (b) of the Anti Dumping Rules and the application satisfies the criteria of standing in terms of Rule 5 (3) of the Rules supra.
12. The Authority notes that subsequent to initiation and during the proceedings no producer has presented itself before the Authority with evidence as a production of PUC though certain interested parties have mentioned that there are certain other producers of PUC also.

## **E. CONFIDENTIALITY, DATA INTEGRITY AND OTHER ISSUES**

### **E.1 Submissions by various interested parties**

- a. The initiation is ab initio void owing to the exclusion of USA from the scope of present investigation and the present initiation is required to be terminated based on this ground alone
- b. In relation to the claim that the petitioners were unaware of the fact that the respondent has not provided domestic sales as well as cost information and that the same is impossible to deduce from the non-confidential versions, it is submitted that the said allegations are frivolous, misconceived and mischievous. Kind attention is invited to our letter dated 23.03.2017, which is indeed also available in the public file, the respondent has clearly stated the reasons in detail as to why individual dumping margin should be granted to it irrespective of the data relating to normal value. The failure of the petitioner to inspect public file and take cognizance of the documents and information submitted by other interested parties, does not give them any right to raise frivolous and unsubstantiated remarks.
- c. In relation to the submission made by the applicant industry that the non-confidential version of the questionnaire responses filed by the respondent herein is excessively confidential, it is submitted that the said allegation is baseless and without any substance. The non-confidential version of the response of the respondent has been prepared exactly as per the directions of the Authority and the practice followed in this regard. Therefore, confidentiality has been claimed by the respondent giving adequate reasons that are fully consistent with the legal provisions and the settled practice of the Authority.
- d. The petitioners have illegally and mischievously altered the application Proforma as per their whim and fancy. In Proforma IV-A, critical information like opening stock and closing stock has not been provided.

## **E.2 Examination by the Authority**

13. With regard to confidentiality of information, the Authority notes that the information provided by the domestic industry on confidential basis was examined with regard to sufficiency of the confidentiality claim in accordance with Rule 7 of the AD Rules. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not kept it open in public file. The Authority has also considered the confidential claims of other interested parties in accordance with the aforesaid rule and its consistent practice.
14. As regards data integrity and correctness, the Authority has verified the data submitted by the domestic industry and M/s Arkema, cooperative producer/exporter in France. Also the Authority has obtained the import data from DGCIS to validate the correctness of the import data.

## **F. Determination of Normal Value, Export Price and Dumping Margin**

### **F.1 Views of the Domestic industry**

- a. The interested parties have not provided any evidence to show availability of public information. Petitioners have constructed normal value based on best available information. It is also relevant to point that that if any such information is publicly available, the interested parties are free to establish that the import price is not a dumped price.
- b. The investigation period considered by the Authority in the present case is October 2014 to December 2015 (15 months). The injury investigation period has been considered as the period 2012-13, 2013-14, 2014-15 and POI.
- c. The purpose of fixation of POI is to consider a period when the existence of dumping causing injury is claimed and established. The date of determination is not relevant to the moot question of dumping causing injury to the domestic industry. Since the factum of dumping causing injury to the domestic industry is established based on investigation period, the conditions prevalent during the investigation period alone should be considered relevant, appropriate and necessary for the purpose.
- d. The Chinese producers are required to be treated as non-market economy companies for the reason that the costs and prices in China do not reasonably reflect the market forces. Para 8 to Annexure-I specifies the parameters which should be considered for grant of market economy status. This also implies that unless these conditions are not fulfilled/satisfied, the Chinese costs and prices cannot be adopted.
- e. The consideration of market economy status is based on parameters prevailing during investigation period. Since the reason for rejection of Chinese costs and prices is distortion in the costs and prices in China due to the factors listed in Para 8 to Annexure-I, petitioner submits that it is the investigation period that is relevant to decide consideration of Chinese producers as market economy companies.
- f. Since Chinese companies have been denied market economy status for the reasons mentioned in Para 8 of Annexure-I till December, 2016, petitioners submit that the Chinese producers are required to be treated as non-market economy companies till such time the investigation period includes the period specified in Accession Treaty protocol.
- g. In the context of rule 2(b), it is well established legal position that the imports by a domestic producer or its relationship with an exporter or importer are examined with reference to the investigation period. If POI alone is relevant for standing purposes, POI alone should be relevant for normal value determination.

- h. Chinese producers are required to be treated as companies operating under non-market economy environment and the Authority may proceed to determine the normal value on the basis of Para 7 of Annexure-I.
- i. Normal value could not be determined on the basis of price or constructed value in a market economy third country for the reason that the relevant information is not publicly available. The petitioners have claimed consideration of normal value on the basis of cost of production in India duly adjusted.
- j. The dumping margin from China is not only significant, but also substantial, thus establishing existence of significant dumping of the product under consideration in India. The import volume of China has remained significant throughout the present injury period.
- k. Since the prices/quotations of the producers of the subject goods were not publicly available in spite of efforts made by the domestic industry, the domestic industry has determined normal value in EU and Canada on the basis of best estimates of cost of production in EU and Canada.
- l. Petitioners strongly refutes the allegation of Arkema that there is no dumping in their product. In fact, dumping margin in case of Arkema should be higher than the estimates drawn in the application
- m. Akzo Nobel has not provided information with regard to their domestic sales or cost of production. Evidently, Akzo Nobel has resorted to significant suppression of facts in the public version of its questionnaire response.

## **F.2. Views of other interested parties**

- a. Normal Value as constructed is wrong as the data of Canada/EU has been claimed to be unavailable, which is not the case and false value has been calculated.
- b. The CNV is not in conformity with law as raw material has been taken at the price available to applicant and not that which is available to subject countries, Raw material and utility norms – the consumption factor has been taken as per standard norms when in fact it should be taken as per the most efficient company in India, Conversion cost and SGA expenses taken as per DI's data when capacity utilization of DI has been very low leading to higher costs and Interest cost also taken as per DI standard when in fact it is very high as the petitioners are relatively new.
- c. DI has claimed very high and unheard of Ocean Freight to reduce the net export price. We request the Authority not to accept the freight claims of the DI and the same may be adopted as per the verifiable data provided by the cooperating exporters/parties.
- d. Arkema has submitted to the Indian Authorities not only all information requested in the initial questionnaire, but also additional elements and clarifications that were requested by the Authorities at a later stage.

Arkema did not engage in unfair dumping practices in India. Imposition of AD measures on EU imports would go against the interest of many users of its product in India. Domestic production of the product concerned is severely insufficient to satisfy local demand and imposing duties against the EU is likely without question to lead to a significant shortage of the product concerned on the local market and an increase in prices that could hardly be passed on to the downstream sectors.

- e. M/s Akzo Nobel, the exporter from Sweden has not claimed normal value and accordingly information related to normal value. The exporter has requested the Authority to construct the normal value based on the best information available in terms of Rule 6(8). In this regard, the exporter has cited cases Stainless Steel Cold Rolled Flat Products of 400 Series having width below 600 mm originating in or exported from European Union, Korea RP and USA on POSCO Korea treatment, Acetone originating in or exported from European Union, Chinese Taipei, Singapore, South Africa & USA. (treatment of M/s Mitsui & Co. Ltd., an exporter from Singapore ) and Clear Float Glass from Iran ( treatment of M/s Ardakan Float Glass Co., Iran. In view of the above, the exporter has requested the Authority to accept the response filed by M/s Akzo Nobel and grant them individual dumping margin.
- f. European Commission have submitted that it appears from the notice of initiation and petition that the complainant constructed normal value based on the conversion cost applicable in India using international rates for the cost of power (natural gas). As the price for gas may differ significantly from one region to another, the Commission considers that such international price should have been disclosed and the Commission fails to understand why the non-confidential version of the petition does not contain any precise or ranged information with regard to cost used. Further, the petition does not contain any information with regard to the origin or level of the cost data used for the other raw materials. The Commission cannot see why such information should be kept confidential either.
- g. European Commission have submitted that India is in clear breach of Article 6.5.1 of the WTO ADA which provides that a meaningful non confidential summary allowing a reasonable understanding of the substance of the information submitted in confidence should be provided. The Commission thus hereby requests the investigating authority to provide a revised version of the non-confidential version of the petition in order to allow the Commission and other interested parties to understand the substance and exercise their rights of defense.

- h. European Commission have submitted that it should be noted that the producers in the EU are likely to have a different cost structure due to their size and the economies of scale derived thereof. The fact that the Indian petitioners started production only recently; i.e. respectively in April 2012 and 2014, also casts doubts concerning their level of efficiency and the conversion rates that have been applied to construct normal value. In the absence of information on the cost of the raw material used, the Commission is not in a position to comment neither on such cost items nor on the level of the normal value. Eventually, the range given in Annexure 3.2 concerning normal value (0.5-1.0) seems quite broad and does not seem to fulfill the requirement of Article 6.5.1 either.
- i. European Commission have submitted that doubts are cast concerning the methodology and the adequacy of the data used in order to establish normal values and the consequent level of the dumping margin. In view of the quality of the non-confidential file, the evidence presented to the investigating authority should not have been regarded as sufficient and the petition should have been rejected.

### **F.3. Examination by the Authority**

- a. Regarding European Commission's observations on Normal Value computation for the producers of European Union, the Authority has evaluated the cooperative exporter from European Union based on their response and for the residual category of producers/exporters from European Union, the data provided by the cooperative exporter from EU has been referenced appropriately.
- b. As regards computation of 'normal value' and adjustments claimed by the petitioners for computing the exfactory export price for producers/exporter, the Authority notes that as from EU two responses have been filed, one complete and another incomplete, the Authority therefore could correlate adjustments for exfactory export price for the residual category with the domestic industry's claim. In case where none of the producers/exporters from the subject countries have cooperated, the Authority has no option but to adopt best available information which includes responses of importers, evidence by domestic industry, Authority's consistent practice and any other appropriate information which is feasible and reasonable. The Authority however notes that since evaluation of extent of dumping is specific to a producer/exporter, it is essential for the concerned producers/exporters to cooperate to assist the Authority in such determinations. Any observations on evaluation of dumping margin by other interested parties i.e. other than the concerned producers/exporters can only be referred to in the context of various options as enumerated above. The Authority has appropriately considered such submissions.

### **F.3.1 Normal Value for all producers/exporters of China**

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

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

16. As none of the exporters/producers from China have responded through questionnaire response in the present investigation the Authority considered para-7 of Annexure-I to the Rules for determination of normal value in case of China PR. Normal value for the subject product imported from China PR into India has therefore been constructed on the basis of best available information as per Rule 6 (8) by considering optimum consumption norms of the domestic industry for major raw materials and utilities, conversion cost, interest, SGA, etc. at the levels allowed for the domestic industry. \*\*\* % of cost of sales excluding interest has been allowed towards reasonable profit as per DGAD practice. The normal value so determined is mentioned in the dumping margin table.

### **F.3.2 Determination of Export Price for all producers/exporters of China**

17. None of the producers/exporters from China have filed questionnaire response. Therefore, the Authority has determined the export price for all producers/exporters of China PR on the basis of the DGCI&S transaction wise data. Accordingly, the weighted average net export price at ex-factory level, in respect of all exporters from China PR has been determined after making due

adjustments for Ocean Freight, Marine Insurance, Commission, Bank Charges, Port Expenses and Inland Freight Charges to an extent of \*\*\* US\$/MT, \*\*\* US\$/MT, \*\*\* US\$/MT, \*\*\* US\$/MT, \*\*\* US\$/MT and \*\*\* US\$/MT respectively on the basis of best available information as per Rule 6 (8) and the same has been mentioned in the dumping margin table. The Exfactory Export Price and CIF value comes to \*\*\* US\$/MT and \*\*\* US\$/MT respectively.

### **F.3.3 Determination of Normal Value for all producers/exporters of Canada**

18. It is noted that none of the producers/exporters in Canada have cooperated with the Authority with questionnaire response. The Authority has therefore constructed the normal value for all producers/exporters in Canada in accordance with Rule 6(8) supra i.e. by considering optimum consumption norms of the domestic industry for major raw materials and utilities, conversion cost, interest, SGA, etc. at the levels allowed for the domestic industry. \*\*\*% of cost of sales excluding interest has been allowed towards reasonable profit as per DGAD's consistent practice. The normal value so determined is mentioned in the dumping margin table.

### **F.3.4 Determination of Export Price in Canada**

19. None of the producers/exporters from the Canada has filed questionnaire response. Therefore, the Authority has determined the export price for producers/exporters of Canada on the basis of the DGCI&S transaction wise data. Accordingly, the weighted average net export price at ex-factory level, in respect of all exporters from Canada has been determined after making due adjustments for Ocean Freight, Marine Insurance, Commission, Bank Charges, Port Expenses and Inland Freight Charges to an extent of \*\*\* US\$/MT, \*\*\* US\$/MT, \*\*\* US\$/MT, \*\*\* US\$/MT, \*\*\* US\$/MT and \*\*\* US\$/MT respectively on the basis of best available information as per Rule 6 (8) and the same has been mentioned in the dumping margin table. The Exfactory Export Price and CIF value comes to \*\*\* US\$/MT and \*\*\* US\$/MT respectively.

### **F.3.5 Determination of Normal Value and Export Price for producers/exporters from EU**

20. The Authority notes that the following producers and exporters of the subject goods from EU have filed questionnaire responses providing information for determination of dumping margins.
- (i) Akzo Nobel Pulp and Performance Chemicals
  - (ii) ARKEMA France, EU
- (i) The Authority notes that M/s Akzo Nobel has provided information only regarding their export price to India but not the cost of production and domestic

sales. In this regard the Authority notes their submissions that Authority has in past considered only export price filed by certain producer/exporter and constructed the normal value for them. The Authority notes that none of the cases cited by M/s Akzo Nobel are similar to the present case. The Authority holds that any producer/exporter cannot partially choose to respond to the prescribed questionnaire. The data sought by the Authority in the questionnaire response is required to be fully completed for the Authority to take a composite assessment. The Authority does not accept partially filed information of M/s Akzo Nobel and therefore treats them non-cooperative and consider them only under the residual category and determine AD measure in accordance with the best available information referencing information available regarding the sales in EU filed by the cooperating exporter and also the DGCIS data.

- (ii) The information submitted by M/s Arkema, France was verified to the extent possible through an on the spot verification and various issues raised have been examined to the extent relevant and feasible during the course of the investigation. The Normal Value, Export Price and Dumping Margin of the producer/Exporter has been determined on the basis of the verified data/information as detailed below.

The Authority notes that the producer/exporter has provided details of domestic sales of both flaked (Alpure X) and bulk (Alpure S) grades during POI to an extent of \*\*\* MT and \*\*\* MT respectively to pulp sector. The producer/exporter has claimed adjustments on account of packing, inland freight, and commission to an extent of \*\*\* Euro/MT, \*\*\* Euro/MT and \*\*\* Euro/MT respectively. For the sales made to non-pulp sector at retail level, the producer/exporter has further claimed adjustments for level of trade. The producer/exporter has provided details of export sales of flaked product type i.e. Alpure X to India during POI and claimed adjustments on inland freight, ocean freight, packing and other charges to an extent of \*\*\* Euro/MT, \*\*\* Euro/MT, \*\*\* Euro/MT and \*\*\*Euro/MT respectively.

The Authority notes that the producer/exporter during the course of investigation had reiterated submissions made in questionnaire response that comparison of domestic and export sales to India be made on a like to like basis i.e. the flaked product exported to India be compared with sale of flaked product in the domestic market of EU and not with bulk, and that too at same level of trade for the main user industry i.e. paper and pulp.

The Authority has undertaken comparison at a grade to grade level for paper and pulp sector where the majority sales have taken place and the level of trade is also comparable.

The Authority notes that the producer/exporter has since exported flaked grade to India in big bags (non-bulk) i.e. Alpure X and has also sold significant quantity of the same product type i.e. Alpure X in their domestic market which meets the threshold of significant sales. Based on the onsite verification undertaken by the team at the producer/exporter site in France, and data furnished during verification and later in response to clarifications

sought/response to exporter verification report, the Authority has determined the exfactory cost of production for both flaked and bulk grades separately as \*\*\* Euro/MT and \*\*\* Euro/MT respectively.

Based on the ordinary course of trade test and after identifying that all domestic sales of flaked type are loss making during POI in the domestic market, the Authority has evaluated the normal value for the flaked product type as \*\*\* Euro/MT. In this regard the Authority has referenced average profit on the comparable grade Alpure S during POI in the domestic market, on its profitable transactions, to compute normal value for flaked category.

The exfactory export price for Alpure X grade to India during POI has been considered as \*\*\* Euro/MT after making adjustments on account of inland freight, ocean freight, packing and other charges.

The dumping margin after the aforesaid comes to \*\*\* \$/MT (\*\*\* %).

For the other producers/exporters of EU including M/s Akzo Nobel, the Authority has considered the normal value in EU on the basis of the cooperative exporter’s data on all domestic sales irrespective of grade/level of sales. Based on this the dumping margin is evaluated as \*\*\* \$/MT (\*\*\* %).

### **F.3.9 Dumping Margin**

21. Considering the Normal Values and the Export Prices as determined above, the dumping margins are calculated as below

Particulars	Unit	China (All Producers/ Exporters)	Canada(All Producers/ Exporters)	EU	
				Arkema	Others
Normal value	US\$/MT	***	***	***	***
Net export Price	US\$/MT	***	***	***	***
Dumping Margin	US\$/MT	***	***	***	***
Dumping Margin %	%	***	***	***	***
Dumping Margin (Range)		0-10	20–30	10-20	20-30

### **G. ASSESMENT OF INJURY AND CAUSAL LINK**

22. Rule 11 of Antidumping Rules read with Annexure –II provides that an injury determination shall involve examination of factors that may indicate injury to the domestic industry, “.... taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles....”. In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a

significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.

23. The Authority notes that the application for imposition of antidumping duty has been filed by M/s Gujarat Alkalies and Chemicals Limited and Teamec Chlorates Limited and is the only producers of subject goods in India. In terms of Rule 2(b) of the Rules the petitioners have been treated as the domestic industry for the purpose of this investigation. Therefore, for the purpose of this determination the cost and injury information of the petitioners, constituting the domestic industry as defined in Rule 2(b), has been examined.

#### **G.1 Views of the Domestic Industry:**

- a. Cumulative assessment of the effects of imports is appropriate since the exports from subject countries directly compete with the like goods offered by the domestic industry in the Indian market. The products manufactured by the producers from the subject countries inter-se and in comparison to the products manufactured by petitioners have comparable properties. In other words, goods supplied by subject countries and by the domestic industry are inter-se like articles.
- b. The demand increased throughout the injury period with a slight decline during the POI. The imports also increased during 2013-14 and had a slight decline afterwards because of commencement of production by Indian producers. In spite of having the capacity to cope up with Indian demand, the imports were significantly high. Imports in absolute and relative terms have been significantly high.
- c. Regarding price undercutting, the foreign producers have reduced their prices from US\$ 600-700 pmt to US\$ 470-440 pmt.
- d. The imports are depressing the prices of the domestic industry in the domestic market as the landed price of imports is much below the level of cost and sales prices of the domestic industry. The subject goods are forcing the domestic industry to sell the product under consideration at highly unremunerative prices. There is significant price depression over the period despite the fact that there was no decline in the costs.
- e. The capacity of the domestic industry is at par with the level of demand but because of dumped imports the optimum level of capacity utilization that could have been achieved has not yet been achieved even though capacity utilization has increased.
- f. Growth of the domestic industry is positive in terms production. However, the optimum level of sales and market share has not been achieved because of dumped imports. Even the present level of sales is being made at much less than the optimum prices causing high financial losses.

- g. The increase in inventories is despite the low level at which the domestic industry produced the goods because of dumping in the Country
- h. Profits, profit before interest, cash profits and return on capital employed, all have remained very adverse throughout the injury period in spite of increase in production and sales
- i. Both dumping margin and injury margin in the current POI from each of the subject countries are positive and significant.
- j. The domestic industry is not able to realize non injurious price for the product. The delta being achieved by the domestic industry is far below what is considered reasonable and fair globally.
- k. Volume of dumped imports has remained significant despite commencement of production by the domestic industry.
- l. Price reduction led caused by the dumped imports forced the domestic industry to reduce its prices
- m. The price depression effect of dumped imports from subject countries have resulted in significant increase in financial losses of the domestic industry.
- n. The domestic industry has been prevented from increasing its production, sales, capacity utilization and market share to the extent of capacities and despite existence of significant demand and capacities in the Country
- o. Deterioration in profits, return on capital employed and cash profits are directly a result of dumped imports
- p. The contribution margin of the domestic industry has steeply declined, which is largely due to dumping.
- q. The growth of the domestic industry became negative in terms of a number of economic parameters.
- r. The inventories with the domestic industry have increased significantly.

## **G.2 Views of Exporters, Importers, Consumers and other Interested Parties**

- a. There is no material injury to the domestic industry as capacity, production, capacity utilization and sales have increased. Profits have stayed same as in the base year but increased from 2013-14 and 2014-15 and the decline in profits cannot be attributed to imports. Price undercutting has been negative as the prices of goods of the domestic industry have been lower than the landed price from the subject countries
- b. Share of DI increased to 51% in POI and share of subject countries decreased from 78% in base year to 48% in the POI. Capacity utilization of DI has gone up to and above 90% post. Period of Investigation and DI must have earned profits.
- c. Production, Capacity utilization and Sales have increased over the injury period
- d. Profits have stayed same as in the base year but increased from 2013-14 and 2014-15 and the decline in profits cannot be attributed to imports

- e. Price undercutting has been negative as the prices of goods of the DI have been lower than the landed price from the subject countries
- f. Losses of petitioners have now been declining. Since petitioner companies are new initial losses cannot be attributed to imports/ alleged dumping.
- g. Petitioners have not claimed price underselling or negative cash flows nor the same has been found out even after analyzing it.
- h. Petitioners acknowledge no negative impact of imports on employment and productivity.
- i. In spite of the fact that petitioners are relatively new in the market, they have been able to capture 51% of the market in a short span of time and thus they have shown growth even during the claimed injury period/POI and so allegations of injury are baseless.
- j. There is no casual link between the alleged dumped imports and the injury to domestic industry
- k. The price under cutting and suppression is positive and hence no such price under cutting took place.
- l. Sales, productivity, market share and ROI have increased while losses have come down for the domestic industry.
- m. No price underselling or any negative cash flows has been claimed by the domestic industry.
- n. The fact that USA is not included in the scope of subject countries though the import volume from USA is above de-minimis threshold and the price from USA is lower than subject countries cumulatively and individually.
- o. The claims of the DI are highly self- serving and misleading. There is no volume injury in the present case. The market share of DI increased to 51% in the POI from a 7% in the base year where as the share of subject imports which was 78% in the base year declined to 48% in the POI. This is when the DI started some significant production only during the 2015-16 after introduction of new capacity. In fact, the imports quickly made way for DI and there cannot be any injury caused by such imports and such imports were necessitated by lack of capacity in India.
- p. The DI have tried to play down the issue of USA from the scope of present investigation which vitiates the causal link qua subject countries and also have a discriminatory aspect in view of Rule 19. The Authority cannot proceed discriminately against a few countries by excluding some. In fact, the claim of 'low volume of imports' from USA has no logic. The Rule provides for 3% as a significant level and import from USA is above 3% as per the import statement submitted for the POI by the DI. Even a suo-motu extension of POI does not justify such exclusion, because even a suo-motu extension of POI takes place after examining the basic facts and no such extension can be expected to be done merely.
- q. The DI did not disclose the price from USA to conceal the fact that the price from USA are much lower than subject countries. The price from USA is

Rs33/Kg whereas the price from subject countries is between Rs 37 to 42 per Kg which is much higher than USA.

- r. In relation to the injury claim of the petitioner, the petitioner is not suffering any injury on account of imports from the subject countries. The petitioners have failed miserably in providing any evidence suggesting price undercutting or price suppression and depression. What is even more surprising is that the petitioner has not even alleged any price underselling in the petition or anywhere in their written submissions. This fact clearly proves that there is neither any price undercutting nor any price underselling and, therefore, it is absolutely baseless to suggest and injury being caused by the allegedly dumped imports. This is without prejudice to our contention, based on our detailed written submissions, that there is no injury to the Domestic Industry in the very first place. Therefore, the claim of Domestic Industry of any injury on account of imports should be rejected outright. Detailed analysis of injury parameters showing negative injury has been already submitted in our written submission therefore the same is not repeated herein for the sake of brevity.
- s. It is pertinent to mention here that the petitioner made an attempt to mislead the Authority with regard to price undercutting by carrying out jugglery of numbers.
- t. In this context, kind attention of the Authority is invited to para 71 on page 21 and Proforma IV-B on page 38 of the updated petition provided by the petitioner. It can be seen that while the petitioner has claimed positive price undercutting in para 71 on page 21, the analysis of the same in Proforma IV-B on page 38 of the updated petition clearly shows negative price undercutting.
- u. In an attempt to work out a positive price undercutting, the petitioner has unfortunately misrepresented and manipulated the data in Proforma IV-B. It may be seen that the petitioner has computed the landed price after deductible amount in Row 9 by deducting from the landed value the CVD/ED as well as the SAD/ACD/ST. On the other hand, the average selling price after deductible credit (Row 15) has been computed by merely deducting excise duty and not the CST (which is the equivalent of SAD/ACD/ST). Thus, the petitioner has misrepresented the data and attempted to compare non-comparables with the sole objective of giving an indication of "positive" price undercutting which in reality is not there. Unfortunately, this glaring fact has also escaped the kind attention of the Authority. The Authority should take a serious view of this fact and draw adverse inferences against the petitioner for having made an attempt to mislead the statutory authority.
- v. The Authority may appreciate that in Proforma IV-B, while Sr. no. 16(iii) and 17(iii) clearly show negative price undercutting for 'price undercutting w/o ED & CVD' and 'price undercutting after ED & CVD' respectively, Sr. no. 18(iii) shows a positive price undercutting for "price undercutting after deductible credit". It is reiterated that this positive price undercutting in Sr. no. 18(iii) is there because, for the computation of deductible amount for "average selling price after deductible credit", the petitioner has intentionally and conveniently

ignored the CST. On the other hand, for the purpose of computation of cenvatable amount for 'landed price after cenvatable credit', the petitioner has included SAD/ACD/ST. It is submitted that such calculation has, in effect, reduced the landed value of the imports and thereby, increasing the difference between landed price and average domestic selling price indicating positive price undercutting. The manipulation of the data done by the petitioner in Proforma IV-B is evident from various tables.

- w. The manipulation of data has been done with a clear intent to depict, somehow or the other, positive price undercutting and to mislead the Authority regarding the same. It is further submitted that such manipulation needs to be discouraged and dealt with strictly. Since the present investigation is based on tampered data provided by the petitioner, the same ought to be terminated forthwith. It is further submitted that the same distortion has been followed for the computation of quarter-wise price undercutting and for working out price undercutting for countries individually.
- x. Article 3.2 of the WTO AD agreement foresees that, in order to determine injury, the investigating authorities shall consider whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption. In this investigation it is rather the opposite. While consumption increased by over 18% over the period 2012-13 to the period of investigation (PoI), the level of imports from the countries concerned has dropped significantly by over 23% over the same period. Furthermore, it is also noted that imports from the subject countries have dropped from 25.747 MT in 2013-14 to 15.746 MT in the PoI, i.e. since both Indian producers started their activities and quickly gained significant market shares to the detriment of the subject countries. It follows from the above that there has been no increase, neither in absolute nor in relative terms, (neither to production nor consumption) of the imports from the subject countries over the period 2012-13 to the PoI ('period of analysis'). The above developments do not point to an injurious situation.
- y. European Commission has submitted that the domestic producers have presumptuously assumed that their mere establishment in a market, which has been in the exclusive hands of third countries for several years, would suffice in order to gain significant market share and reach high profitability rates early after they started commercial production. The Commission cannot agree with such reasoning for obvious reasons.
- z. European Commission have also submitted that the petitioner seems to put excessive weight on the profitability of the domestic industry and the fact that

the industry incurred losses over the last years. In this regard, it is first recalled that the domestic producers started their operation respectively in April 2012 and April 2014; i.e. very recently. In this context, it cannot be reasonably assumed that a newcomer on a market will generate immediate profit. On the contrary, start-up costs are usually only absorbed only after a few years of activity. Second, it is noted that the profitability situation of the domestic industry is not as dramatic as depicted in the petition. For instance, the loss per unit has been decreasing significantly since 2013-14 (from index -148 to -99 during the POI). In the absence of any indicator on the actual level of profitability expressed as a percentage of turnover for the domestic Indian industry (reported as a range or index), the Commission is prevented from providing any more elaborate comments on the particular issue of profitability.

- aa. According to Article 3.4 of the WTO AD agreement all relevant economic factors and indices having a bearing on the state of the industry shall be evaluated and that nor one or several of the injury indicators listed can necessarily give decisive guidance on the finding of injury. The investigating authority is hereby invited not to focus only on certain indicators but to give the appropriate weight to all relevant injury indicators as listed in the WTO AD agreement. These indicators also show an inconclusive injury picture.
- bb. Given the position of new entrants on the market, it appears that the situation of the petitioners is encouraging not to say satisfactory in many respects. Indeed, the petitioners have gained significant market share in the record time of less than 42 months and attracted 47,84% of the domestic consumption in the PoI. The market share of the domestic industry even reached 51,66% in 2015-16/Q2. It is also noted that cost of sales has been decreasing much faster than selling price between 2013-14 and the PoI (-15 percentage points for cost of sales vs -7 percentage points for selling price). Other indicators such as capacity utilization, sales volume, employment, productivity per employee and per day all show a positive trend over the period of analysis.
- cc. As far as stocks are concerned, the investigating authorities are invited to ensure that the increase in inventories is not linked to the fact that the end of the PoI does not coincide with the end of a financial year where companies usually tend to reduce their inventories for balance sheet presentation purposes.
- dd. As far as price undercutting is concerned, the petitioners claim that the import price from the subject countries was below the cost of sales and selling price of the domestic industry. In this regard, it is suggested that the petitioners, as new producers, have to cover higher costs and have to offer higher prices, which may explain the alleged price undercutting. In any case, the higher

costs / prices of the domestic industry did not prevent them from gaining significant market shares.

- ee. All in all, it appears that the domestic industry is progressively settling on the domestic market to the detriment of historical market players as evidenced by the continuous improvement of most injury indicators.
- ff. Imports from the subject countries have decreased significantly over the period of analysis following the penetration of two domestic producers in the Indian market. In this context, it is unclear how the decrease in imports may have contributed to the alleged injury suffered by the domestic producers. On the contrary, it appears that the situation of the domestic producers is improving in many respects, as indicated above. In view of the above elements, the Indian domestic industry did not suffer any injury and that any alleged injury could in any event not have been caused by imports. There seems to be other factors that have had an important impact on the situation of the domestic producers.
- gg. European Commission has also submitted that according to Article 3.5 of the ADA, the authorities shall also examine any known factor other than the dumped imports which, at the same time, are injuring the domestic industry, and the injuries caused by these other factors must not be attributed to the dumped imports. Therefore, an in-depth analysis of other factors is necessary, in particular:
  - (i) In view of the recent apparition of the two Indian producers on the market and in the absence of reliable historical data concerning production costs, conversion rates, scrap ratios, productivity..., the investigating authority should compare the above mentioned key performance indicators of the domestic Indian industry with those of long-established producers in the subject countries in order to assess whether the domestic producers are actually producing efficiently and can be competitive on the Indian market even though a 7.5% import duty is already applicable on sodium chlorate and serves as a first trade protection.
  - (ii) In view of the level of domestic consumption in the period of analysis which ranged between 26.159 and 31.718 MT and the apparent absence of significant exports by the petitioners, doubts are cast concerning the level of capacity of the domestic producers (+/- 31.500 MT). It appears that, in view of the historical presence of other market players, the domestic Indian producers have been careless, not to say presumptuous when estimating the level of capacity to be installed. It follows from the above that the installed capacity appears oversized in comparison with the extent of the market and that such

overestimate is likely to lead to excessive fix costs having a negative impact on the financial performance of the domestic industry.

- (iii) Start-up costs and other factors inherently affecting the beginning of any production activity before it reaches its normal cruise speed should also be analysed as their extend can have a negative impact on the financial performance of the domestic industry. The Indian authorities are therefore invited to improve the quality of the non-confidential version of certain documents to allow all interested parties to exercise their rights of defence. The Commission also requests the Indian authorities to assess the overall evolution of all injury factors, including the absolute and relative evolution of imports, and not to focus on certain isolated indicators. The Indian authorities are also invited to compare the actual performance of the petitioners with that of long-established petitioners to assess whether the domestic industry is operating in an efficient way and can indeed be competitive. The impact of other factors should also be analysed thoroughly.

### **G.3 Examination by the Authority**

24. The Authority has taken note of submissions made by various interested parties. The Authority has examined the injury to the domestic industry in accordance with the Antidumping Rules and considering the submissions made by the other interested parties.
25. The AD Rules require the Authority to examine injury by examining both volume and price effect. A determination of injury involves an objective examination of both (a) the volume of the dumped imports and the effect of the dumped imports on prices in the domestic market for the like article and (b) the consequent impact of these imports on domestic industry. With regard to the volume of dumped imports, the Authority is required to consider whether there has been a significant increase in the dumped imports, either in absolute terms or relative to production or consumption in India. With regard to the effect of the dumped imports on prices the Authority is required to consider whether there has been a significant price undercutting by the dumped imports as compared with the price of like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases which otherwise would have occurred to a significant degree.
26. As regards the consequent impact of dumped imports on the domestic industry, Para (iv) of Annexure II of Antidumping rules states as under:-
- (iv) 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 the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments.*

27. It is not necessary that all parameters of injury show deterioration. Some parameters may show deterioration; while some may show improvement. The Designated Authority considers all injury parameters and thereafter concludes whether the domestic industry has suffered injury due to dumping or not.
28. The Authority has examined the injury parameters objectively taking into account the facts and arguments in the submissions.

### **G.3.1 Cumulative assessment**

29. With regard to cumulative assessment Annexure II (iii) to the Rules provides as follows:

*In cases where imports of a product from more than one country are being simultaneously subjected to anti-dumping investigation, the designated authority will cumulatively assess the effect of such imports, only when it determines that (a) the margin of dumping established in relation to the imports from each country is more than two percent expressed as percentage of export price and the volume of the imports from each country is three percent of the import of the like article or where the export of individual countries less than three percent, the imports collectively accounts for more than seven per cent of the imports of like article and (b) cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic articles.*

30. In the instant case, investigations in respect of subject goods are from more than one sources. The Authority, therefore examined the injury to the domestic industry cumulatively for these countries. The Authority notes that
  - a. The margins of dumping of product under consideration from each of the subject countries are more than the de-minimis limit;
  - b. The volume of imports of product under consideration from each of the subject countries is more than de minimis;
  - c. The information furnished to the Authority gives a reasonable indication that the exports made from the subject countries compete inter se and in the same market, thus are like product.
31. In view of the above, the Authority holds that it would be appropriate to cumulatively assess the effects of dumped imports of the subject goods from the

subject countries on the domestic industry in the light of conditions of competition between imported products and like domestic products.

**a. Assessment of Demand**

32. For this purpose, demand or apparent consumption of the product in India is taken as the sum of domestic sales of the Indian producers and imports from all sources. Share of imports for each of the subject countries in demand/consumption in India determined by the Authority is as under-

Particulars	Unit	2012-13	2013-14	2014-15	POI
Sales of Domestic Industry	MT	1,725	4,612	11,496	15,699
Imports from Subject Countries	MT	21,233	25,184	20,118	15,849
Canada	MT	525	2,982	3,964	1,078
China	MT	7,573	11,650	1,918	975
EU	MT	13,135	10,552	14,235	13,797
Other Countries	MT	3,844	1,870	158	571
Total Demand	MT	26,802	31,666	31,772	32,118

33. The Authority notes that demand has increased over the injury period.

**G.3.2 Volume Effect of Dumped Imports - Import Volumes and Share of Subject Countries**

34. 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. The Authority has examined the volume of imports of the subject goods from the subject countries and other countries based on the transaction-wise import data provided by DGCI&S data. The import volumes of the subject goods and share of the dumped import during the injury investigation period are as follows:

Particulars	Unit	2012-13	2013-14	2014-15	POI
Subject Countries	MT	21,233	25,184	20,118	15,849
Canada	MT	525	2,982	3,964	1,078
China	MT	7,573	11,650	1,918	975
EU	MT	13,135	10,552	14,235	13,797
Other Countries	MT	3,844	1,870	158	571
Total Imports	MT	25,077	27,054	20,276	16,420
Share of imports in total imports					
Share of subject countries	%	85%	93%	99%	97%
Share of other countries	%	15%	7%	1%	3%
Subject Country Imports in relation to					
Indian production	%	1228%	534%	174%	103%
Consumption	%	79%	80%	63%	49%

35. Imports have increased in 2013-14, and started declining thereafter to some extent because of commencement of commercial production by domestic industry. However, despite commencement of domestic production, the imports remained significant throughout the injury period. Almost entirety of imports is from subject countries. Further imports in relation to production and consumption are also significant in the POI.

### **G.3.3 Price Effect of the Dumped imports on the Domestic Industry**

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

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

37. It has been examined whether there has been a significant price undercutting by the dumped imports of the price of the like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. The impact of dumped imports on the prices of the domestic industry has been examined with reference to the price undercutting, price underselling, price suppression and price depression, if any.

#### **Price Undercutting**

38. 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. In this regard, a comparison has been made between the landed value of the product from each of the subject countries and the average selling price of the domestic industry net of all rebates and taxes, at the same level of trade. The prices of the domestic industry were determined at ex-factory level.

SN	Particulars	Unit	China	Canada	EU	Subject countries
1	Landed Price	Rs/MT	45,290	43,974	41,801	42,163
2	Net Selling Price	Rs/MT	***	***	***	***
3	Price undercutting	Rs/MT	(***)	(***)	(***)	(***)
4	Price undercutting	%	(10-20%)	(0-10%)	(0-10%)	(0-10%)

39. The Authority notes that the price undercutting is negative for which domestic industry has claimed that they had no option but to match the landed prices.

### **Price Underselling**

40. The Authority has also examined price underselling suffered by the domestic industry on account of dumped imports from the subject countries. For this purpose, the cost of sales determined for the domestic industry has been compared with the landed price of imports. The landed price of imports considered for the purpose of price undercutting has also been adopted for the purpose of determining price underselling. Comparison of weighted average cost of sales of the domestic industry with weighted average landed price of imports shows as follows:

SN	Particulars	Unit	China	Canada	EU	Subject countries
1	Landed Price	Rs/MT	45,290	43,974	41,801	42,163
2	Non-Injurious Price	Rs/MT	***	***	***	***
3	Price underselling	Rs/MT	***	***	***	***
4	Price underselling	%	30-40%	30-40%	40-50%	40-50%

41. It is noted that the landed price of imports were below the non-injurious price of the domestic industry. The Authority notes that the domestic industry has suffered price underselling during the investigation period on account of imports of the subject goods from the subject countries.

### **Price Suppression and Depression**

42. In order to determine whether the dumped imports are depressing the domestic prices or whether the effect of such imports is to suppress prices to a significant degree and 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. The position is shown as per the Table below.

Particulars	Unit	2012-13	2013-14	2014-15	POI
Cost of Sales	Rs./MT	***	***	***	***
Trend	Index	100	93	90	69
Selling Price	Rs./MT	***	***	***	***
Trend	Index	100	80	77	71

43. It is noted that, both, cost of sales and selling price of the domestic industry declined throughout the injury period. However, decline in selling price is much more than the decline in cost of sales. The selling price has remained below the level of cost of production throughout the injury period. Thus, imports indicate suppressing and depressing effect on the domestic prices in the domestic market.

### **G.3.4 Impact on Economic Parameters of the Domestic Industry**

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

#### **a) Capacity, Production, Capacity Utilization and Sales**

45. The performance of the domestic industry with regard to production, domestic sales, capacity & capacity utilization is as follows:

<b>Particulars</b>	<b>Unit</b>	<b>2012-13</b>	<b>2013-14</b>	<b>2014-15</b>	<b>POI</b>
Capacity-Plant	MT	11,500	11,500	31,500	31,500
Trend	Index	100	100	274	274
Production	MT	1,729	4,712	11,543	15,454
Trend	Index	100	273	668	894
Capacity Utilization	%	15%	41%	37%	49%
Sales volume	MT	1,725	4,612	11,496	15,699
Trend	Index	100	267	666	910

46. It is noted that both the petitioner companies have commenced commercial production recently. Production and sales of the domestic industry has therefore increased as a natural consequence of domestic industry commencing production during the injury period. Capacity utilization of the domestic industry has also increased, but continue to be sub optimal.

#### **b) Profits, Return on Capital Employed and Cash Profit**

47. The cost of sales, selling price, profit/loss, cash profits and return on investment of the domestic industry has been analyzed as follows:

<b>Particulars</b>	<b>Unit</b>	<b>2012-13</b>	<b>2013-14</b>	<b>2014-15</b>	<b>POI</b>
Cost of Sales	Rs./MT	***	***	***	***
Selling Price	Rs./MT	***	***	***	***
Profit/ (Loss) per unit	Rs./MT	(***)	(***)	(***)	(***)

Profit/ (Loss) – Total	Rs.Lacs	(***)	(***)	(***)	(***)
Cash Profit	Rs.Lacs	(***)	(***)	(***)	(***)
Profit before Interest and Tax	Rs.Lacs	(***)	(***)	(***)	(***)
Return on Investment	%	(***)	(***)	(***)	(***)

48. The Authority notes that the domestic industry suffered financial losses in terms of profit, profit before interest and cash profits. The return on capital employed has seen a decline over the injury period and remained at negative levels throughout the injury period.

**c) Market Share in Demand**

49. The effects of the dumped imports on the market share in demand of the domestic industry have been examined as below:

Particulars	Unit	2012-13	2013-14	2014-15	POI
Subject Countries Imports	%	79.22	79.53	63.32	49.35
Other Countries- Imports	%	14.34	5.91	0.50	1.78
Sales of domestic industry	%	6.44	14.56	36.18	48.88
Total	%	100	100	100	100

50. The Authority notes that the market share of the domestic industry has increased with commencement of production. However, subject imports holds significant market share and that domestic industry is also having sufficient capacity to cater the domestic demand. It indicates that dumping of the product is impacting the market share of the domestic industry, which commenced commercial production only recently.

**d) Employment, Wages and Productivity**

51. The position with regard to employment, wages and productivity is as follows:

Particulars	Unit	2012-13	2013-14	2014-15	POI
No. of Employees	Nos	***	***	***	***
Trend	Index	100	100	136	136
Wages	Rs Lacs	***	***	***	***
Trend	Index	100	132	206	176
Productivity per employee	MT/Nos	***	***	***	***
Productivity per day	MT/day	***	***	***	***

52. The Authority notes that employment level has increased and so has the level of wages. Further, productivity per day and per employee has also increased over the injury period.

**e) Inventory**

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

<b>Particulars</b>	<b>Unit</b>	<b>2011-12</b>	<b>2012-13</b>	<b>2013-14</b>	<b>POI</b>
Opening Stock	MT	***	***	***	***
Closing Stock	MT	***	***	***	***
Average Stock	MT	***	***	***	***
Trend	Index	100	967	2,567	10,114

54. The Authority notes that level of inventories with the domestic industry have increased significantly over the injury period.

**f) Magnitude of Dumping**

55. It is noted that imports from each of the subject countries are entering the country at dumped prices and the margin of dumping are above de-minimus limits and significant.

**g) Ability to raise capital investment**

56. Petitioners have submitted that they have already planned capacity expansion in view of significant demand in the country. The Environmental approval and other statutory approvals have already been made. However in view of dumping causing injury to the domestic industry, the expansion is not being pursued. It indicates that the ability of the petitioner to raise capital is being affected.

**h) Growth**

57. The data relating to growth of the domestic industry is shown in the following table:

<b>Growth</b>	<b>Unit</b>	<b>2012-13</b>	<b>2013-14</b>	<b>2014-15</b>	<b>POI</b>
Production	Y/Y	-	173%	145%	34%
Domestic Sales	Y/Y	-	167%	149%	37%
Cost of sales	Y/Y	-	-7%	-3%	-23%
Selling price	Y/Y	-	-20%	-3%	-8%
Profit/Loss	Y/Y	-	295%	139%	-43%
ROI	Y/Y	-	-462%	12%	52%
Cash Profit	Y/Y	-	-335%	-77%	78%

58. The Authority notes that growth of the domestic industry has lowered in some parameters.

### **i) Factors Affecting Domestic Prices**

59. The examination of the import prices from the subject countries, 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 shows that the landed value of imported material from the subject countries is below the selling price and the non-injurious price of the domestic industry, price underselling in the Indian market. The authority notes that the prices of the product under consideration in general should move in tandem with the prices of key raw materials and the domestic industry has been fixing its prices considering these input prices and landed price of imports. Domestic industry has claimed that since they have commenced production recently, the domestic industry had no option but to align its prices to the market prices, which are dictated by the prices offered by the foreign producers in subject countries. Thus, the landed value of subject goods from the subject countries is an important factor for determination of domestic prices.

### **G.3.5 Other Known Factors & Causal Link**

60. The Authority has noted other factors listed under the Antidumping Rules which could have contributed to injury to the domestic industry for examination of causal link between dumping and material injury to the domestic industry.

#### **Imports from third countries**

61. The Authority has examined import data of the subject goods obtained from DGCI&S on transaction-wise basis and notes that almost entirety of imports are from subject countries as compared to imports from other country imports.

#### **Contraction in demand**

62. The demand for the subject goods has increased thus possible decline in demand have not caused injury to the domestic industry.

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

63. There is no trade restrictive practice which could have contributed to the injury to the domestic industry.

#### **Developments in technology**

64. The existing technology and process adopted by the domestic industry is comparable with foreign producers as regards production of the final product.

### **Changes in pattern of consumption**

65. The pattern of consumption with regard to the product under consideration has not undergone any change. Change in the pattern of consumption is unlikely to contribute to the injury to the domestic industry.

### **Export performance**

66. The domestic industry has not exported the product under consideration. Thus injury to the domestic industry is on account of domestic operations only.

### **Performance of the domestic industry with respect to other products**

67. The performance of other products being produced and sold by the domestic industry has not affected the assessment made by the Authority of the domestic industry's performance. The information considered by the Authority is with respect to the product under consideration only.

### **Productivity of the domestic industry**

68. The Authority notes that the productivity of the domestic industry has increased. Deterioration in productivity is not a cause of injury to the domestic industry.

### **Factors establishing causal link**

69. Analysis of the performance of the domestic industry over the injury period shows that the performance of the domestic industry has deteriorated due to dumped imports from subject countries. Causal link between dumped imports and the injury to the domestic industry is established on the following grounds:
- a. Volume of dumped imports has remained significant despite commencement of production by the domestic industry.
  - b. Price reduction caused by the dumped imports have forced the domestic industry to reduce its prices;
  - c. The price depression effect of dumped imports from subject countries have resulted in significant increase in financial losses of the domestic industry.
  - d. The domestic industry has been prevented from increasing its production, sales, capacity utilization and market share to the extent of capacities and despite existence of significant demand and capacities in the Country;
  - e. financial losses and negative return on capital employed are directly a result of dumped imports;

- f. The growth of the domestic industry became negative in terms of a number of economic parameters.
- g. The inventories with the domestic industry have increased significantly.
- h. The Authority has determined non-injurious price for the domestic industry. For the purpose the Authority has considered best consumption norms of the raw materials & utilization. The Authority has segregated and excluded injury suffered by the domestic industry due to other factors, in accordance the provisions of Annexure-III to the Rules.

**H. Magnitude of Injury and Injury Margin**

- 70. The non-injurious price of the subject goods produced by the domestic industry as determined by the Authority in terms of Annexure III to the AD Rules has been compared with the landed value of the imports from the subject country for determination of injury margin during the POI and the injury margin so worked out is as under:

Particulars	Unit	Canada	China	EU	
				Arkema	Others
Non Injurious Price (NIP)	US\$/MT	***	***	***	***
Landed Price	US\$/MT	***	***	***	***
Injury Margin	US\$/MT	***	***	***	***
Injury Margin %	%	***	***	***	***
Injury Margin (Range)	%	30-40	30-40	50-60	50-60

- 71. It is seen that the injury margin for each of the subject country is positive and substantial.

**I. User Industry’s Interest & other issues**

- 72. The Indian Paper Manufacturers Association have submitted the following:
  - A. The Pulp & Paper Industry is passing through a very difficult phase, to survive under the current scenario of significantly increased raw material and input and energy cost and very aggressive competition in the domestic market from imports of finished products allowed at concessional / nil import duty under the different Free Trade Agreements (FTAs) signed by India. The Pulp & Paper Industry has made substantial investments in the last 5 years and it is becoming very difficult to meet its financial obligation in view of significant drop in margins. As things stand today, there is a very serious threat of existing investments in capacities turning economically unviable. 2/3 large Paper Mills have already closed down in the last couple of years, and if no urgent steps are taken by the Government, it is feared that some more Mills may face closure. This will not only create revenue loss to the Government, but also adversely impact an

industry that has strong backward linkages with the farming community and generates significant employment in the rural areas.

B. India Pulp & Paper Industry is deeply concerned with the Initiation of Anti-Dumping Duty investigation concerning imports of 'Sodium Chlorate' originating in or Exported from Canada, People's Republic of China and EU vide Notification dated 12th May 2016, since the Pulp & Paper Industry is a major consumer of Sodium Chlorate, and some Paper Mills have been importing the same even before M/s Gujarat Alkalies & Chemicals Ltd. (GACL) and M/s Teamec Chlorates Ltd. (TCL) commenced their production.

- Many Paper Mills, in order to avoid hazardous liquid chlorine for bleaching of pulp, have eliminated its use and have started the use of Sodium Chlorate in its place. In the revised process, Chlorine Dioxide is produced from Sodium Chlorate, which is used for bleaching of pulp and making the paper produced 'Eco Friendly' and 'Elemental Chlorine Free (ECF)'. Many more Paper Mills are in the process of moving towards ECF bleaching of pulp.
- Purity of the Sodium Chlorate imported from Canada, People's Republic of China and EU is much higher than the Sodium Chlorate available in the domestic market. The monthly running cycle for imported Sodium Chlorate is also better being 45 days against 35 days for indigenously produced Sodium Chlorate.
- Sodium Chlorate, being a hazardous item, which comes under the Arms Act, cannot be dumped in the domestic market like other materials as only licensed customers can use it for their own use.
- Presently, the price of imported Sodium Chlorate is at par with domestically procured Sodium Chlorate, and it is anticipated that any imposition of anti-dumping duty on the import of Sodium Chlorate will result in increase in its domestic prices also, and as a result, add further to the overall manufacturing cost of the domestic Pulp & Paper Industry and further squeeze the thin margins under which the industry is currently operating.
- In order to safeguard the interests of the end consumers of paper as a whole, and especially the school children under the 'Sarva Shiksha Abhiyan', it is requested that anti-dumping duty on the import of Sodium Chlorate should not be even considered till the demand-supply gap in the country is eliminated.

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

73. The Authority notes the submissions of users and holds that the purpose of anti-dumping duties, in general, is to eliminate injury caused to the domestic industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the India market, which is in the general interest of the country, Imposition of antidumping measures is not to restrict imports from the

subject countries in any way, and to affect the availability of the products to the consumers.

74. The Authority also holds that though in an event of imposition of anti-dumping duties the price level of product in India may be affected but fair competition in the Indian market will not be reduced by such anti-dumping measures. On the contrary, the anti-dumping measures may mitigate the unfair advantage gained by dumping practices, which would arrest the decline of the domestic industry and help maintain availability of wider choice to the consumers of subject goods. Consumers could still maintain two or more sources of supply.

### **Post disclosure comments**

75. The post disclosure comments by domestic industry and various interested parties are as under:

- (i) Domestic Industry has submitted the following:
- NIP has been determined on the basis of the data of the domestic industry. Petitioner requests complete disclosure of detailed break up of NIP determined, including (i) element of expenses disallowed, (ii) adjustments made in cost of production claimed, (iii) any modifications done in the capital employed to enable the petitioner to provide comments on the same.
  - The Authority may disclose the non-confidential version of the verification report of the exporters/producers from subject country to offer meaningful comments on the dumping margin calculated.
  - The Authority may kindly make available a copy of all the communications sent via mail or letter, to the opposing interested parties and replies filed by these interested parties. Petitioner is not requesting any confidential information. Petitioner is requesting only NCV of this information.
  - Since Normal value is based on the domestic industry data and information publicly available/used; it may be disclosed.
  - Authority may disclose the actual dumping margin. The actual dumping margin cannot be confidential in this case for the following reasons
  - In case of participating exporter – Since the injury margin is much higher than dumping margin, in any case, once the Designated Authority issues final findings, the interested parties shall know the actual dumping margin determined. What would not remain confidential at that stage cannot be confidential at this stage.
  - In all other cases – as the information is based on petitioner/domestic industry's data, the same is not confidential.

- Since the actual data adopted in the injury analysis pertains to the domestic industry, the same may be disclosed to the domestic industry. This has in fact been disclosed to the domestic industry in the past.
- The above is vital for the domestic industry to offer their meaningful comments on the disclosure statement. However, pending such disclosure, the domestic industry offers hereunder following preliminary submissions to the Disclosure Statement. The domestic industry craves leave to make further submissions, as and when the above essential facts are disclosed.
- Petitioners conclude from the disclosure statement that the domestic producers are the only domestic producers of subject goods in India; the product under consideration is exported at prices below normal value, resulting in dumping from each of the subject countries. The dumping margin determined is very low; Domestic Industry has suffered material injury and such injury is evidenced by adverse price effect of dumped imports from the subject countries. Anti-dumping duty is required to be imposed to address dumping causing injury to the domestic industry.
- The Authority has noted that one of the major user industry has itself admitted that petitioners are the only two domestic producers of subject goods hence the comments on standing of DI have been reiterated. Petitioners have neither imported nor related to any importer or exporter of subject goods and thus are eligible domestic industry and satisfy the provision of standing in terms of AD Rules.
- The dumping margin determined for Chinese producers is too low. Petitioners earlier requested disclosure of calculations of normal value. While the said calculations have not been disclosed to the petitioners so far, the analysis of information provided by the petitioners and the information contained in the disclosure statement clearly shows that the authority has determined normal value on the basis of NIP determined for GACL. However, petitioners submit that determination of normal value on the basis of GACL data alone is inappropriate in the present case for the following reasons.
- Production of PUC generates hydrogen gas. While GACL consumes this hydrogen gas in production of Hydrogen Peroxide, Teamac does not consume hydrogen gas and allows it to be let off. The research done by the petitioner with regard to Chinese producer's operations shows that there are Chinese producers who have no utilization of hydrogen. Since there exist producers of PUC in China who cannot utilize hydrogen in production of some other product, determination of normal value on the assumption that Chinese producers are generating hydrogen and utilizing the same in production of downstream product is without any basis. Petitioners request the authority to kindly determine normal value on the basis of data/information pertaining to Teamac alone. Petitioner refers to rule 6(8) in this regard.

- The scope of best available information has also been well explained in the WTO Agreement. Therefore if an interested party does not cooperate and thus relevant information is being withheld from the authorities, this situation could lead to a result which is less favourable to the party than if the party did cooperate.
- The Hon'ble Supreme Court has also held in the matter of Fairdeal Polychem Llp vs Union of India & Anr that the WTO Agreement is directly applicable on to the authority. Thus, in the absence of relevant provision in Indian Rule as is prescribed under WTO Agreement, it must be concluded that the scope of Rule 6 (8) implies that that if an interested party does not cooperate and thus relevant information (in the instant case, information on normal value) is being withheld from the authorities, this situation could lead to a result which is less favourable to the party than if the party did cooperate. The authority is therefore required to draw adverse inference in respect of the exporters and not a favourable inference with regard to exporters. In other words, the authority should not penalize the domestic industry because of non-cooperation of the exporters and should not reward the exporters for their non-cooperation.
- AD Duties be levied on fixed quantum basis in Dollar terms.

(ii) M/s Arkema, France has submitted the following:

- The comments submitted by M/s GIDE on behalf of Arkema, France are in particular regarding the erroneous basis for the dumping margin calculation and the insufficient disclosure of the Indian authorities, the non-cooperation of the Chinese producers, and the injury analysis.
- As set out in the confidential disclosure document relating to the dumping calculation relating to Arkema France, named "Arkema CV on DM.docx", the dumping amount is found to be \*\*\*MT. This amount was confirmed as 12%, on a telephonic enquiry.
- Firstly, the documents received from the Indian authorities as part of the general disclosure (both confidential and non-confidential documents) are insufficient to fully understand the methodology used by the Indian authorities to calculate the dumping margin for our client or the findings relating to other parties in the proceeding, such as the Chinese producers or the domestic industry.
- Secondly, specifically with regard to the dumping margin calculated for our client, Arkema France, it is not clear how the amount of \*\*\* is equivalent to a dumping margin of around \*\*\*. It appears from the disclosure documents and further communication with the Indian authorities that the dumping margin was calculated on the basis of the ex-works export price rather than the CIF price.

- However, such practice is contrary to the provisions of the WTO Agreements as well as the generally accepted practice of WTO members. Article 7.2 of the WTO Anti-Dumping Agreement (“ADA”) states that “Provisional measures may take the form of a provisional duty or, preferably, a security - by cash deposit or bond - equal to the amount of the anti-dumping duty provisionally estimated, being not greater than the provisionally estimated margin of dumping. Withholding of appraisal is an appropriate provisional measure; provided that the normal duty and the estimated amount of the anti- dumping be indicated and as long as the withholding of appraisal is subject to the same conditions as other provisional measures.”
- Furthermore, Article 9.3 of the WTO ADA expressly provides that “the amount of the anti-dumping duty shall not exceed the margin of dumping as established under Article 2”.
- By using the ex-works export price as a basis for the calculation of the dumping margin, which is naturally lower than the CIF price, the Indian authorities have artificially increased the level of the anti-dumping duty to be imposed, which now exceeds the level of the dumping margin established for our client, Arkema France.
- Appendix 2 of Arkema's questionnaire reply sets out details of all sales of Alpure X to India in the POI. The average CIF price in this appendix is €591,03. On the basis of this CIF price, the dumping margin is \*\*\*% (\*\*\*). We consider that the CIF price is the appropriate basis for calculating the dumping margin as this is the price on which the Indian customs authorities will levy the anti-dumping duty. To levy a duty of around \*\*\*% would mean that the duty exceeds the dumping margin. Such practice used by the Indian authorities is clearly in contradiction to the provisions of the WTO ADA. We therefore consider that the proposed duty should be revised to reflect the above calculation method.
- It is indicated in the non-confidential general disclosure document that no Chinese producers cooperated with the investigation and that the dumping calculation was made on the best facts available to the Indian authorities. However, compared to the other foreign producers concerned by the investigation, the Chinese producers have obtained the lowest dumping margin (0-10%) whereas the other producers, including Arkema France, have dumping margins between 10% and 30%.
- This finding was particularly shocking to Arkema France as our client cooperated to the best of its capabilities with the Indian authorities. As also stated in the general disclosure, our client provided you with all the information requested and all of the data received was verified during a verification visit conducted at the premises of Arkema France. Moreover, as is also confirmed by the Indian authorities themselves in the disclosure documents, Arkema France was the only foreign producer to cooperate to this

extent with the Indian authorities.

- It should be noted that the result above is not in line with the spirit of the WTO Agreements, which do not support the idea of granting more favorable results to non-cooperating producers than cooperating producers. Moreover, it takes away any incentive a foreign producer may have to cooperate with any future investigations initiated by India if it is clear that it is India's practice to grant a more favorable result to non-cooperating producers.
- Arkema France considers that information disclosed with regard to the methodology of the calculation of the dumping margin, in particular the normal value, with regard to the Chinese producers is insufficient. For example, the general disclosure document states that the normal value for Chinese exporters was constructed on the basis of best facts available "by considering optimum consumption norms of the domestic industry for major raw materials and utilities". Such vague terms do not allow the other interested parties in the proceeding to understand the methodology behind the calculations made. Indeed, the word "optimum"<sup>1</sup> could suggest that the most favorable consumption norms have been used which results in the most favorable outcome for the non-cooperating Chinese exporters.
- Arkema France therefore considers that the calculation and ultimate finding for the Chinese exporters requires revision.
- Based on the general non-confidential disclosure document, the injury and causation arguments are not at all convincing and do not justify the imposition of anti-dumping duties. For example, it would appear that the domestic industry has seen improvements in all factors, except inventories (which have only decreased slightly). Furthermore, although the disclosure document states that "the domestic industry suffered financial losses in terms of profit, profit before interest and cash profits" and that "the return on capital employed has seen a decline over the injury period and remained at negative levels throughout the injury period" (please see par. 48 of the general disclosure document), such findings are not at all supported by any data disclosed in the disclosure document. In fact, no data at all in this regard was disclosed.
- With regard to causation, it appears from the disclosure documents that imports from the countries concerned have fallen from approximately 21 000 MT to around 16 000 MT. The market share of imports has decreased from 79% to 49% while at the same time the market share of the Indian producers has increased dramatically from 6% to 49%.
- The Indian authorities should strongly consider revising their findings in this regard.

- (iii) M/s APJ SLG Law offices representing Akzo Nobel, EU have submitted the following:
- M/s Akzo Nobel has stated that they are extremely concerned regarding not granting the individual dumping margin to the responding producer/exporter is in stark contradiction to the position taken by the authority in some of the recent cases. Unfortunately, the disclosure statement is silent on the detailed submissions, arguments and precedents advanced by us and why the same are not applicable to the fact and circumstances of the present case. The detailed submissions were filed by us in the earlier note dated 12/6/2017.
  - The Authority has brushed aside the submissions and legal position cited by us merely by stating that “none of the cases cited by M/s Akzo Nobel are similar to the present case.” The Authority may appreciate that it is not the similarity of ‘facts’ which is required to be examined in a case, but the ‘ratio’ of the approach and the position taken by the Designated Authority in other cases. In any event, it is obligatory on the Authority to deal with the legal provisions and the case laws and to record reasons as to why the same are distinguishable. The facts of the present case may be different from the cases cited by us, but we reiterate that it is the ‘ratio’ which matters. Even a cursory glance of the cases cited by us would establish beyond any doubt that the ratio and practices are clearly applicable in the facts and circumstances of the present case.
  - Authority may determine individual dumping margin / injury margin for the responding producer/exporter from European Union, M/s Akzo Nobel for the sake of fair treatment and the consistency of practice.
  - Despite our repeated submissions in this regard, the Authority has conveyed the present position to us for the first time through the disclosure statement. We, therefore, request the Hon'ble Authority to grant us an opportunity of hearing to explain our submissions along with the relevant applicable case laws in person in accordance with the principles of natural justice.
- (iv) M/s M.S. Pothal & Associates Chartered Accountants on behalf of (a) M/s Zenith Electrochem Pvt Ltd, (b) M/s Bindals Papers Mills Ltd, and (c) M/s K R Pulp & Papers Ltd has submitted as under:
- There is a serious issue of non- inclusion of apparently above de-minimis level imports of PUC from USA in the scope of present investigation. The issue is not just a blatant violation of WTO principle of non-discriminatory imposition of duties, but has a causal link breach aspect as well since the price from USA is lower than price from subject countries. The disclosure statement captured the issue at some places as submissions by importers etc. However, no examination of the issues is being carried out which is unfair and inconsistent to the practice of this Authority itself in the past. Such issues have been examined with great relevance in the past as can be seen from

various findings by the Authority and there is no legal or factual reason now to give the issue a skip. At the cost of repetition, we once again reproduce our relevant submission on this issue as below to seek the kind attention of the Authority to this significant issue. It is reiterated that the present investigation should be terminated without any measures as the exclusion of above de-minis low priced imports from USA viz. subject countries have breached the causal link in the present investigation and the authorities cannot impose duties in a discriminatory fashion.

- Non-inclusion of USA as a subject country in the present investigation has vitiated the present investigation itself. It would cause the causal injury examine unfair and look manipulative and also it has its nuances of discrimination against a particular country which is prohibited under the ethos of AD Agreement itself. We have pointed out this issue in our initial submissions itself but no justification whatsoever has been advanced by the DI for non- inclusion of USA in the scope which makes it doubtful that the DI excluded USA with a design unknown to us.
- It was coined by DI that the POI was suo motu extended by one quarter by the Ld. Authority and as per the original POI the share of USA was 2.14%. This arguments itself is not sufficient to remove the impediment that has happened. The DI has merely attempted to shift the burden of the lapse to the Ld. Authority whereas the fact of the matter is that no such suo motu extension of POI would have carried out without checking the basic information pertaining to the period considered to be included in the POI. Our humble submission is that the DI did not bring this fact to the knowledge of the Ld. Authority to take advantage of such exclusion and in fact the DI remained silent on the issue for the past more than 7 months even after we pointing out this issue in our initial submission. We wish to submit as follows on the issue.
- The present anti- dumping investigation concerning imports of Sodium Chlorate is initiated against Canada, China PR and EU and these countries are jointly referred to as subject countries in the initiation notification. Rule 14 and Rule 19 of the ant dumping rules are relevant in this respect wherein rule 14, inter alia, sets the threshold of 3% from a particular country in the total import volume into the country as level to continue an anti- dumping investigation against a country and rule 19 prohibits imposition of anti-dumping duties in a discriminatory manner i.e imposing AD duties against only a particular country or countries and leaving one or more countries from the scope of any duty imposition. Rule 19 has its direct reliance on Article 9.2 of the WTO AD Agreement. The concept of non- discriminatory action is very strictly followed by WTO members and DGAD also has never been an exception to it. Rule 14, 19 and Article 9.2 of the AD Agreement are pertinent in this regard.
- The Applicant has been highly selective in choosing the subject countries and have deliberately ignored imports of the subject goods from USA despite the

fact that the imports from USA were significantly above the de-minimis thresholds during the POI and were also at significantly lower price as compared to the prices from the subject countries that have been included in the investigation. This shows that the initiation is discriminatory in nature vis-à-vis subject countries and any imposition of AD duties against the subject countries and no duty against USA in the present case will lead to discriminatory measures, thus, the present initiation is untenable under the law. Such an initiation not only hints at discriminatory action but also an apparent breach of causal link also.

- The revised summary imports data provided by the applicant reflecting the imports of the PUC from various countries provided vide Annexure 1.2 along with the updated petition at page 47 of the Application clearly shows that imports of the subject goods from USA have been significantly higher than the de-minimis thresholds prescribed under the law. Further, imports from USA have taken place at such lowest price levels which have been considered as injurious to the domestic industry by the Applicant qua the subject countries. We, thus, fail to fathom as to why USA has not been considered as a part of the subject countries in this investigation.
- Non-inclusion of USA as a subject country has led to a situation whereby Rule 19 of the AD Rules stands violated. Rule 19 enjoins the Authorities not to impose Anti-dumping duty on discriminatory basis as submitted herein above.
- The exclusion of USA from the scope of 'subject countries' has been deliberate as the participating domestic industry may have imported the subject goods or could be related to some of the exporter/producer of the subject goods from USA and, thus, may not have had the 'locus standi' to file the application at all against USA. Mischief is apparent, as the Applicant has merely filed declarations that the participating domestic producers have not imported the subject goods from the subject countries as against declaring that they have not imported the subject goods at all, which is a major fallacy in itself.
- Also, it is misleading that the DI has submitted in Section V of the updated application considering the new POI that the imports from other countries are either negligible or import prices are high when the fact of the matter remained imports from USA were at about 3.14% and the price was Rs 33/kg which was substantially lower than the price from subject countries which ranged between Rs 37 to 42 per KG. What is interesting is that the DI did not clarify on this issue in the updated petition also and gave a misleading statement instead. If the exclusion was the fallout of extension of POI, then the DI would have clarified the same in the updated petition.
- It is submitted that non-inclusion of USA is a larger legal issue and which goes into the very roots of present investigation. Thus, non-inclusion of USA within the scope of the investigation is a fatal error that makes the entire

investigation ab initio void. Hence, the Hon'ble Authority taking cognizance of this fatal error must terminate these proceedings on this ground alone. After all, the AD Agreement and AD rules do not permit the Authority to proceed discriminately in an AD investigation which is a bilateral issue.

- It has been submitted that there are more than 2 producers in India and one of such other known producer is a state owned company. The subject disclosure statement addressed the issue effectively as in para 11. However it is reiterated that Shree Chlorate (M/s Zenith Electrochem Pvt Ltd) still has the license to produce the subject goods and there is another producer namely The Travancore Cochin Chemicals Limited (state PSU) which is also producing the subject goods, name of which is not at all disclosed to the Authority by the petitioner.
- The normal value and export price, it is submitted that the dumping margin as determined appears extremely high and it is our apprehension that the petitioner has placed misleading information on record to show a very high dumping margin and we are handicapped to place any comments as every information relating to dumping margin determination is held as confidential. The dumping margin determined may be revisited in view of our earlier submissions also which is not reproduced for sake of brevity.
- Any injury to the domestic industry is visible from the disclosure statement and the case needs to be terminated for this reason alone. A plain reading of the disclosure statement reaffirms our claims that there is no injury suffered by the domestic industry as alleged on account of imports from subject countries as imports from Sodium Chlorate have declined.
- Price under cutting is clearly negative in the case which shows there was no adverse price effect of landed price from subject countries on domestic industry. It is incorrect to say that the petitioner tried to match the price of imports. Had that been the case, then the undercutting would have been positive. Negative undercutting means the landed price of imports were higher than domestic price so where is the question of petitioner trying to match the import prices. It needs to be answered as to what has stopped the domestic industry from increasing its prices to the levels at least that of imports. Also, the imports from subject countries declined significantly by the POI which shows the exporters were not attempting to gain more market share by offering lower prices.
- The negative undercutting from subject countries coincided with decline in imports buttresses our argument that the cause of any alleged injury to the domestic industry would at the best be low priced imports from USA and when import price from USA has not been causing any injury to the domestic industry as evident from the fact that no case is initiated against USA, a comparatively higher priced imports from subject countries ought not have caused any injury. Thus, the veracity of the claims needs further examination.

- Positive price underselling has no meaning in the facts of present case and any positive underselling at the best could be the result of an inflated COP though the NIP is determined as per Annexure III. The negative undercutting shows there was absolutely no price effect of subject imports and such prices could not have created any underselling effect in reality, thus, it is our apprehension that the COP is clearly inflated which needs further scrutiny before allowing any such costs as claimed by the petitioner.
- It is observed by the Authority in the disclosure statement that both, cost of sales and selling price of the domestic industry declined throughout the injury period however, decline in selling price is much more than the decline in cost of sales. It is also observed by the Authority that the selling price has remained below the level of cost of production throughout the injury period, thus, imports indicate suppressing and depressing effect on the domestic prices in the domestic market. With regard to these observations, it is submitted that the table at para 43 shows less decline in selling price and reduction in cost has been higher. Also, since the price undercutting is negative, there cannot be any suppressing or depressing effect on account of alleged dumped imports. Any injury in such case could be due to other reason and injury on account of any such other reasons cannot be attributed to imports. This aspect needs further examination considering our above comments and we pray for the same.
- All the volume parameters as per the disclosure statement show stupendous growth. There hasn't been any price injury also on account of imports as the price from subject countries were not undercutting the price of domestic industry. Thus, there is absolutely no injury triggered by alleged dumped imports and based on this the Authority may conclude that the domestic industry did not suffer any injury during the POI.
- The trend of productivity is kept as confidential and the trend is also not provided. We request the Authority to check the same and any injury on account of decline in productivity cannot be attributed to imports. We are unable to offer any comment as not even trend of the parameter is available in the 'factual disclosure'.
- There isn't any economic justification to see the claimed increase in inventory level as given in the disclosure as a an indicator of injury in the present case as the key volume parameters of domestic industry's performance shows extreme spurt by the POI and at the same time the imports from subject countries have sharply declined. The increase in inventory cannot be attributed to imports.
- The disclosure statement has addressed the issue of growth without giving any emphasis to the significance of this parameter. The observation that growth of domestic industry has lowered in some parameters is grossly

insufficient an examination when the fact of the matter is the growth has been significantly positive in almost every parameter of the subject disclosure. There cannot be even an iota of truth in the claim that the domestic industry suffered material injury when key injury parameters showed positive growth. We request the Authority to examine the aspect in detail so that correct conclusions on injury are reached out.

- Contrary to the observation that there is causal link in the present matter, it is submitted that negative price undercutting and exclusion of low priced above de-minimis level imports from USA viz. subject countries shows breach of causal link in the present case. We do not have the details of import volume and price from USA as per DGCI&S as the same is held confidential or not provided here. There is enough reason to believe that the imports from USA were more than de-minimis threshold and the prices were less than subject countries and this was evident in the petition. We request the Authority to re-examine the causal link aspect by taking USA imports also into consideration.
- (v) European Commission have submitted the following:
- Article 3.2 of the WTO ADA provides that the investigating authorities shall consider whether there has been a significant increase in dumped imports, either in absolute terms or relative to production and consumption. As already pointed out by the commission in its previous submission, import volumes of Sodium Chloride in to India from the subject countries have decreased considerably after the domestic industry has started producing the product concerned. Import from the subject countries in relation to both Indian production and consumption have also decreased significantly (-92% and -38%) over the period of analysis (2012-13 to the POI). All imports from the subject countries have started to decrease in particular from 2014-15 (from 20, 118 MT to 15,849 MT in the POI), after the second Indian company entered the domestic market and gained market share.
  - It is also claimed that, despite the start of domestic production, imports remained significant throughout the injury period and almost all imports come from the subject countries: but this is absolutely normal in a situation where the domestic demand has completely relied on imports for so long and the domestic industry has started producing the product concerned only recently.
  - As regards prices, the comparison to establish undercutting has been kept confidential: no data nor index on net selling prices of the domestic industry has been made available, making it impossible for parties to have a clear understanding of the allegedly injurious situation. It is simply claimed that import prices of the domestic industry; but, even so, this has not prevented the newly established domestic industry to gain significant market share (49% of domestic consumption in the POI) in a short period of time.

- The same applies to underselling, where no index nor trend on the non-injurious price of the domestic industry has been made available (Annex IV (A) does not help in understanding the calculation).
- The above mentioned absence of meaningful summaries of the non-disclosed data and calculations undermines the parties rights of defence and is contrary to the provisions of Article 6.5.1 of the WTO ADA, which provides that the authorities shall require interested parties providing confidential information to furnish non-confidential summaries thereof and that these summaries shall be in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence.
- Production and sales volume of the domestic industry have increased in 2014-15 as a consequence of the second domestic company starting production in April 2014, and kept on increasing during the POI. So did capacity utilization, employment, productivity per day and per employee.
- In view of an increasing positive trend of most injury indicators, the domestic industry does not seem to be in a situation of serious injury caused by dumped imports. Any difficulty the industry is experiencing is most likely due to other factors, notably when imports have decreased significantly during the period of analysis.
- According to Article 3.5 of the WTO ADA, it must be demonstrated that there is a causal relationship between the dumped imports and the injury to the domestic industry. An important element in order to show this causal link is price undercutting. However, as explained above, the information on undercutting is not conclusive.
- Furthermore, the petitioners claim that due to the dumped imports, and despite the significant increase in domestic demand, they were not able to further expand capacity as they has planned. However, since the domestic industry has already reached nearly 50% market share within three years only, it is considered that the domestic industry's plan and investment to increase capacity were excessive. They did not take into account/underestimated the strong position the imported products hold for so long on the Indian Market.
- The petitioners also claimed that they has to reduce their selling prices thus suffering financial losses as a consequence of the allegedly dumped imports. In this regard, the Commission questions how the two can be linked, since imports from the subject countries have significantly decreased over the period of analysis. There are other factors, already outlined in our previous submission (efficiency, capacity, start-up costs), that have has an impact on the situation of the Domestic Producers and that need to be taken appropriately into account.

## **Examination by the Authority**

76. The Authority clarifies that as regards all non-cooperative producers/exporters from China and Canada, the Authority has evaluated constructed normal value (CNV) for all these producers/exporters in accordance with Rule 6(8) supra i.e. by considering optimum consumption norms of the domestic industry for major raw materials and utilities, conversion cost, interest, SGA, etc. at the levels allowed for the domestic industry. 5% of cost of sales excluding interest has been allowed as reasonable profit as per DGAD's consistent practice and the same has been adopted here. The Authority also holds that dumping margin evaluated for a cooperative producer/exporter of a particular subject country cannot be compared with producers/exporters from other countries be it cooperative or non-cooperative, as determination of CNV for non-cooperative producer/exporter of a subject country are based on best available information as appropriate for that country. Further Dumping Margin is a function of not only CNV but also export price, which varies country to country. The Authority therefore reiterates the dumping margin already evaluated for China and Canada.
77. As regards dumping margin evaluation for Arkema France, the Authority notes that the producer/exporter has not per se denied the evaluation of dumping but has made submissions on the percentage of dumping margin which according to them should be evaluated as a percentage of CIF and not ex-factory export price (ExEP). The Authority has as per the AD Rules evaluated dumping margin as a percentage of ExEP. While dumping margin as percentage of ExEP or CIF may vary, the absolute dumping margin value would remain unchanged. The Authority has disclosed the cost of production and further details of ordinary course of test along with profit margin to be added on cost of production to Arkema France. The ExEP value claimed by the producer/exporter has been accepted with all relevant details regarding exfactory export price computations disclosed to the producer/exporter. The Authority therefore confirms the evaluation of dumping margin already conveyed to the producer/exporter.
78. As regards inclusion of USA also as a subject country, the Authority holds that it is not only the import price but also the fact of dumping which needs to be prima facie established by a petitioner while requesting initiation of a case. The Authority received petition against three countries only and initiated the case against these three requested countries on the basis of prima facie facts which did not include USA.
79. The Authority notes the submissions made by the advocates for M/s Akzo Nobel to grant individual dumping margin to them on the basis of only the export price furnished by them as they have no claim on the normal value. The Authority has in this regard noted the cases cited by them where such a consideration has been submitted to have been made. The Authority notes that none of the cases cited by the producer/exporter is similar to the present case. In case of Cold Rolled Steel Products, the producer/exporter had filed actually data on cost of production which was not considered appropriate. In case of Acetone the

exporter had provided the Domestic Sales data but not the cost of production. In case of M/s Ardakan, there were deficiencies noted in the response of the producer/exporter. Therefore in all these case the producer/exporter showed their intention and effort to file data which fall short of normal expectation. In case of M/s Akzo Nobel, there is a total denial regarding filing of data for normal value purposes. Therefore the Authority holds that M/s Akzo Nobel has therefore been appropriately considered in the residual category.

80. As regards Domestic Industry's claim to disclose NIP, a detailed worksheet was already provided to them. As regards other information on disclosing CNV, exact dumping margin %, exporter verification reports/communications etc., the Authority holds that the disclosure on various aspects has been made as per the Authority's consistent practice. The CNV computed for a non-cooperative group of producers/exporters has been based on Domestic Industry's data viz. the most efficient producer and by allowing an appropriate quantum of return as per Authority's consistent practice. Since 'CNV' is computed based on domestic industry's data along with other best available information, the Authority does not disclose computation of CNV to Domestic Industry or any of the interested parties including the non-responding producers/exporters, for whom the dumping margin is computed as this is treated as confidential. The dumping margin evaluated is therefore mentioned as a range in the final finding and not as an exact percentage to ensure confidentiality.
81. As regards the standing of Domestic Industry the Authority notes that the major user associations has submitted that there are only two producers of the product under consideration in the country. Further no evidence on existence of any other producer has been filed by any interested party nor has any such producer made itself known to the Authority during the course of investigation. The standing of the Domestic Industry has therefore been correctly established.
82. The Authority notes that various interested parties have submitted that the Domestic Industry's indices on production, sales, market share are strong and not evidencing any injury. Further the price undercutting is also negative. The Authority notes that despite all these indices, the prices of Domestic Industry have remained suppressed well below the NIP. The negative price undercutting in case of new producers needs to be appreciated in context of their efforts to ensure their market presence. The domestic industry has benchmarked its selling prices with imports from the dumped sources. While this happens, there is a negative price effect in terms of reduced profitability and a significant injury margin which have been noted in this investigation. Therefore Authority holds that there has been a visible injury on price account due to price suppression effect.

## **Conclusions**

83. Having examined the contention of various interested parties and on the basis of the analysis as above, the Authority concludes that:

- i) There is dumping of product concerned from the subject countries.
- ii) Imports from subject countries are suppressing the prices of the domestic industry.
- iii) The price injury to domestic industry has been caused by dumped imports, with a significant positive injury margin due to price suppression.

### **Recommendations**

84. Having concluded as above the Authority considers it necessary to recommend following definitive Anti-dumping duty on imports of subject goods from the subject countries in the form and manner as described in the duty table given below.
85. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of anti-dumping duty equal to the lesser of margin of dumping and the margin of injury, so as to remove the injury to the domestic industry. Accordingly, antidumping duty equal to the amount mentioned in Col 8 of the table below is recommended to be imposed by the Central Government, on imports of the subject goods originating in or exported from the subject countries.

**DUTY TABLE**

S.No	Heading/ Sub heading	Description of goods	Country of Origin	Country of Export	Producer	Exporter	Duty Amount	Unit	Currency
1	2	3	4	5	6	7	8	9	10
1	28291100	Sodium Chlorate	China	China	Any	Any	17.77	MT	US\$
2	-do-	-do-	China	Any	Any	Any	17.77	MT	US\$
3	-do-	-do-	Any	China	Any	Any	17.77	MT	US\$
4	-do-	-do-	Canada	Canada	Any	Any	120.14	MT	US\$
5	-do-	-do-	Canada	Any	Any	Any	120.14	MT	US\$
6	-do-	-do-	Any	Canada	Any	Any	120.14	MT	US\$
7	-do-	-do-	EU	EU	Arkema France	Arkema France	60.51	MT	US\$
8	-do-	-do-	EU	EU	Any other than mentioned in S. No. 7 above	Any other than mentioned in S. No. 7 above	95.35	MT	US\$
9	-do-	-do-	EU	Any	Any	Any	95.35	MT	US\$
10	-do-	-do-	Any	EU	Any	Any	95.35	MT	US\$

86. Landed value of imports for the purpose of this Notification shall be the assessable value as determined by the Customs under the Customs Act, 1962 (52 of 1962) and includes all duties of customs except duties under sections 3, 3A, 8B, 9 and 9A of the said Act.

**Further Procedure**

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

Dr. Inder Jit Singh  
Additional Secretary & Designated Authority