

**GOVERNMENT OF INDIA
MINISTRY OF COMMERCE & INDUSTRY
DEPTT. OF COMMERCE
DIRECTORATE GENERAL OF ANTI-DUMPING & ALLIED DUTIES
NOTIFICATION**

**NEW DELHI
the 30th June, 2011**

FINAL FINDINGS

Sub:- Final Findings of anti-dumping investigation concerning imports of Caustic Soda originating in or exported from Thailand, Chinese Taipei and Norway.

14/1/2010-DGAD – Having regard to Customs Tariff Act, 1975 as amended from time to time (hereinafter 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 thereof, as amended from time to time (hereinafter referred to as the AD rules).

A. Procedure

2. The procedure described below has been followed.
 - i The Designated Authority (hereinafter referred to as the Authority), under the Rules, received a written application from Alkali Manufacturer's Association of India (AMAI), Delhi on behalf of the domestic industry, alleging dumping of Caustic Soda originating in or exported from Thailand, Norway and Taiwan (Chinese Taipei) (hereinafter referred to as subject countries).
 - ii Preliminary scrutiny of the application revealed certain deficiencies, which were subsequently rectified by the Applicant. The application was, therefore, considered as properly documented.
 - iii The Authority, on the basis of sufficient evidence submitted by the Applicant to justify initiation of the investigation, decided to initiate the investigation against imports of the subject goods from the subject countries.
 - iv The Authority notified the embassy of the subject countries in India about the receipt of dumping application before proceeding to initiate the investigation in accordance with sub-Rule 5(5) of the AD Rules.

- v The Authority issued a public notice dated 31st May 2010 published in the Gazette of India, Extraordinary, initiating anti-dumping investigations concerning imports of the subject goods from the subject countries.
- vi. The Authority forwarded a copy of the public notice to all the known exporters (whose details were made available by the Applicant) and gave them opportunity to make their views known in writing in accordance with the Rule 6(2) of the AD Rules.
- vii. The Authority also forwarded a copy of the public notice to all the known importers of the subject goods in India and advised them to make their views in writing within forty days from the date of the letter.
- viii. The Authority provided a copy of the non-confidential version of application to the known exporters and the embassy 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 other interested parties, wherever requested.
- ix. The Authority sent questionnaires to elicit relevant information to the following known exporters in subject countries in accordance with Rule 6(4) of the AD Rules:
 - Chemex Industry Co. Ltd
 - Phoenix Pulp & Paper Company
 - Siam Occidental Electrochemical Company
 - Thai Fermentation Industries
 - Thai Organic Chemicals Co.
 - Thai Paper Mills
 - Thai Plastic & Chemicals Public Co., Ltd.
 - Thasco Chemical Co., Ltd.
 - Cathay Chemicals Co. Ltd., 12 FI Kuang
 - Borregaard Industries Ltd.
- x. The following exporters/producers/associations/Embassy from Subject countries have responded to initiation notification:
 - Formosa Plastics Corporation – Taiwan
 - Vinythai Public Company Limited, Thailand. Department of Foreign Trade, Thailand
 - Tricon Energy Limited, US
 - Borregaard Industries Ltd., Norway
 - Elkem AS
- xi. Questionnaires were sent to the following known importers / users of subject goods in India calling for necessary information in accordance with Rule 6(4) of the AD Rules:

Abhay Chemical Limited
 Albright Wilson Chemicals Limited
 Arvind Mills Limited
 Central Pulp Mills Limited
 Deepak Nitrite Limited
 Godrej Soaps Limited
 Gujarat Narmada Fertilizers & Chemicals Limited
 Gujarat State Fertilizer & Chemicals Limited
 Indian Farmer Fertilizer Co.Op Limited
 Indian Oil Corporation Limited
 Jaysynth Dyeschem Limited,
 Link Pharma Ltd.
 Meghmani Organics Limited
 Narmada Chemature Petrochemcials Ltd.
 Nirma Limited
 Pab Chemicals (P) Limited
 Rama News Prints & Papers Limited,
 Rubamin Limited
 Sabero Organics Ltd.
 Torrent Gujarat Biotech Limited
 Transpek Silox Industries Limited
 National Aluminium Company Ltd
 Cynaides and Chemicals Company,
 Hitsu Industries Limited
 Adani Exports Limited
 Libra Foams
 Shri Ramachandra Straw Products Limited
 Bilag Industries Pvt Ltd.
 Daruala Organics Limited
 CJ Shah & Co.
 Harish Kr & Co.
 Hindustan Link & Resin Limited
 Hindustan Lever Limited

- xii. In response to the initiation notification, following importers /users/association have responded :

The Dyestuffs Manufacturers' Association of India, Mumbai.
 Aluminum Association of India.
 Hindalco Industries Limited
 Vedant Aluminum Limited

- xiii. The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by the interested parties.

- xiv. Information provided by interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered

confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis was directed to provide sufficient non confidential version of the information filed on confidential basis.

- xv. Information was sought from the applicant companies. Information relating to injury was provided by two more domestic producers, viz. DCW Ltd. and Solaris Ltd. However, the interested parties present at the time of oral hearing objected to addition of information from more domestic producers after initiation and demanded that the Authority should not consider their information for injury assessment. Considering the objection raised by the opposing interested parties, the Authority decided not to consider the information filed by DCW Ltd. and Solaris Ltd. post-initiation and informed the interested parties about the same.
- xvi. The Non-injurious Price based on the cost of production and cost to make and sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) has been worked out so as to ascertain whether Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to the Domestic Industry;
- xvii. Investigation was carried out for the period starting from 1st Oct., 2008 to 31st Dec., 2009 (POI). The examination of trends, for the purpose of injury analysis covered the period from April 2006–March 2007, April 2007-March 2008 April 2008-March 09, and the POI.
- xviii. The Authority held a public hearing on 24th May, 2011 to hear the interested parties orally, which was attended by representatives of the interested parties. The interested parties were asked to file written submissions and rejoinders, if any. The written submissions and rejoinders received from interested parties are considered in the final findings to the extent considered relevant.
- xix. In accordance with Rule 16 of the Rules supra, the essential facts/basis considered for these findings was disclosed on 17th June, 2011 and comments received thereon are appropriately addressed in the final findings.
- xx. *** in this notification represents information furnished by an interested party on confidential basis, and so considered by the Authority under the AD Rules.

B. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

B.1 Submissions of the domestic industry

3. Submissions made by the domestic industry are briefly as follows

- i. The product under consideration in the present application is Caustic Soda.
- ii. All forms of Caustic Soda (Lye and solids) are covered within the scope of the product under consideration.
- iii. These two forms of Caustic Soda are like articles. The issue has been examined by the Authority in various investigations earlier concluded. The issue has been examined by the CESTAT also it has been upheld that these forms of Caustic Soda are like articles.

B.2 Submissions made by other interested parties

- 4. Caustic Soda in Lye form and Flake form are significantly different in terms of prices. Therefore, analysis of dumping, injury and causal link should be made separately for Lye form and flake form.

B.3 Examination by the Authority

- 5. The Authority has examined the matter as under:
 - i. The Authority notes that Caustic Soda Lye and Caustic Soda Flakes are only two different forms of Caustic Soda. The former is processed further to obtain solid form. The two are essentially same in terms of technical characteristics, manufacturing process, technology, function and use. Mere difference in form of the product does not render them dislike articles. In all the previous investigation, the Authority has considered Lye and solid form of Caustic Soda as one product.
 - ii. The product under consideration in the present investigation is sodium hydroxide generally known as caustic soda. Caustic soda is chemically known as NaOH. Caustic soda is a soapy, strongly alkaline odorless liquid widely used in diverse industrial sectors, either as a raw material or as an auxiliary chemical. Caustic soda is produced in two forms – lye and solids. Solids can be in the form of flakes, prills, granules or any other form. All forms of caustic soda are subject matter of the investigation.
 - iii. Caustic soda is used in the manufacture of pulp and paper, newsprint, viscose yarn and staple fiber, aluminum, cotton, textiles, toilet and laundry soaps, detergents, dyestuffs, drugs and pharmaceuticals, vanaspati, petroleum refining etc.
 - iv. Caustic Soda being is an inorganic chemical and is categorized under Chapter 28 of the Customs Tariff Act, 1975 under subheading no. 2815. The classification is however indicative only and is not binding upon the scope of product under consideration.
 - v. Caustic Soda is produced from three processes, diaphragm, mercury and membrane. However, the final product from the each process produced contains similar physical and chemical characteristics.

- vi. With regard to like article, Rule 2(d) of the AD rules provides as under:

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

- vii. The applicant claimed that there is no known difference in the subject goods produced by the domestic industry and those imported from the subject countries. The subject goods produced by the domestic industry and imported from 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.
- viii. The Authority notes that there is no significant difference in subject goods produced by the Indian industry and imported from subject countries. Even though the product is produced through different process, the subject goods produced by the Indian industry and that imported from subject countries are comparable in terms of parameters such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers are using the two interchangeably. None of the other interested parties has raised any objection in this regard. Subject goods produced by the petitioner companies are being treated as like articles to the subject goods imported from subject countries in accordance with the anti-dumping Rules.

C. SCOPE OF DOMESTIC INDUSTRY AND STANDING

C.1 Submissions by the domestic industry

6. Submissions made by the domestic industry are briefly as follows:-
- i. The petition is filed by Alkali Manufacture Association of India.
- ii. Association in Executive Committee meeting decided to file the present petition for imposition of anti dumping duty. The decision has been taken in accordance to by laws of Association.
- iii. All Indian producers of Caustic Soda are members of the Association.
- iv. Production of participating companies and supporting companies account for a major proportion of total Indian production. The petition therefore satisfies the standing and the petitioner constitute domestic industry within the meaning of the Rules.

C.2 Submissions by interested parties

7. Submissions by other interested parties are briefly as follows:
- i. Petitioner has been conveniently excluding and including members of the association to take part in the investigation.
 - ii. Selective participation and constitution of Domestic Industry clearly shows lack of transparency and divulging the true affair of the affected industry as a whole.
 - iii. Petitioner should not be allowed to abuse the process of filing repeated and continuous application merely to protect the private business interests.

C.3 Examination by the Authority

8. Rule 2 (b) of the AD rules defines domestic industry as under:
- i. *“Domestic industry” means the domestic producers as a whole engaged in the manufacture of the like article and any activity connected therewith or those whose collective output of the said article constitutes a major proportion of the total domestic production of that article except when such producers are related to the exporters or importers of the alleged dumped article or are themselves importers thereof in such case the term ‘domestic industry’ may be construed as referring to the rest of the producers only.*
 - ii. The application was filed by Alkali Manufacturers’ Association of India (AMAI). The application was filed by the association on behalf of the following domestic producers, who provided relevant information.

Gujarat Alkalies & Chemicals Limited
Grasim Industries Limited
DCM Shriram Consolidated Limited
SIEL Industrial Complex
Bihar Caustic & Chemicals Limited
 - iii. Following companies supported the petition filed by AMAI.

Reliance Industries Limited
Kanoria Chemicals & Industries Limited
Gujarat Fluorochemicals Limited
Solaris Chemtech Limited
DCW Limited
Jayshree Chemicals Limited
 - iv. Post initiation, Solaris Chemtech Limited and DCW Limited also provided their injury information. However, the interested parties, during the course of oral hearing, objected to addition of information by the said two domestic producers after initiation and urged the Authority not to consider their information for injury assessment.

Considering the objection raised by the opposing interested parties, the Authority decided not to consider the information filed by DCW Ltd. and Solaris Ltd. and informed the interested parties about the same.

- v. The interested parties have argued that the petitioner has changed composition of domestic industry in every case concerning the subject product. In this regard, the Authority observes that nothing is prescribed in the law to require that the composition of domestic industry in different investigations relating to the same product will be the same. Nor any interested party has established that this has in any way prejudiced the present investigation.
- vi. Authority notes that the companies who have provided their injury data and which have been duly taken on board by the Authority, collectively account for a major proportion (approx. 44%) of total Indian production. The petition, therefore, satisfied the requirements of standing under the Rules. Further, the participating companies constitute "Domestic Industry" within the meaning of the Rules.

D. OTHER ISSUES

D1. Issues raised by interested parties.

- 9. Some of the other issues raised by the interested parties are as follows:
 - a) Letter of Alkali Manufacturers' Association of India indicated only Thailand as a subject country for initiating the anti dumping Investigation. Therefore, investigation against other countries was inappropriate.
 - b) Finding of Director General Safeguards needs to be considered by DGAD.
 - c) Significant improvement post July 2009.
 - d) Data till March 2010 considered by Director General (Safeguards) and hence, Designated Authority should consider the information and development taken place subsequently.
 - e) Injury analysis: Decline in profitability Q3 of 08-09 was due to Global Recession
 - f) The investigation period is inappropriate as it covered recession in global market.
 - g) Petitioner has overstated imports volume by repeating import transactions. Petition contains information, which has been inflated to the extent of staggering 853.85%.
 - h) While arriving at ex- factory export price, petitioner has claimed deductions for which petitioner has not provided any evidence in the petition.

- i) The petitioner has claimed excessive confidentiality. Even cumulative figures relating to domestic industry as a whole have been claimed confidential.
- j) Current initiation is in contravention of the ministerial declaration dated 14th November, 2001 with regard to back to back investigations. Application for the present initiation was filed on 5th of May, 2011. The present application has been filed within 365 days of the final negative determination with regard to imports from Taiwan of the same period.
- k) Imports from Canada are above de-minimis as per the handouts circulated by the domestic industry during oral hearing. Therefore, exclusion of Canada from the investigation is not proper.

D.2 Submissions by petitioner:

10. The following submissions are made by the petitioner:

- a) Petitioner had already filed errata in this regard. As submitted in the Written Submissions, the petition in its relevant part makes it evident that the petition is in respect of Thailand, Norway and Taiwan.
- b) What the Director General Safeguard stated is that there was no justification for continued imposition of safeguard duty, particularly because anti-dumping duty was in place. The Director General has not stated that the industry no longer suffered material injury and anti-dumping duty is not required to be imposed.
- c) The Final Findings of the Director General are relied upon which clearly establishes that the Director General has not concluded that anti-dumping duty is not required to be imposed.
- d) The argument is factually incorrect in as much as it assumes that the profitability of the domestic industry in Q-3 was low. In fact, profitability of the domestic industry in Q-3 was relatively better as compared to subsequent part of the period of investigation. Table below demonstrates—

S NO	Months/ Quarterly	NSR Lye	NSR Lye	NSR Flake	NSR Flake	NSR Chlorine	NSR Chlorine	NSR ECU	NSR ECU	NSR ECU	NSR ECU
		Rs/MT	Index	Rs/MT	Index	Rs/MT	Index	Rs/MT	Index	US\$/MT	Index
1	2006-07	***	100	***	100	***	100	***	100	***	100
2	2007-08	***	94	***	97	***	116	***	97	***	109
3	2008-09	***	118	***	122	***	64	***	109	***	109
4	Oct'08-Dec'09 (POI)	***	112	***	109	***	29	***	99	***	92
5	Oct'08-Dec'08	***	121	***	118	***	6	***	102	***	94
6	Jan'09-March'09	***	131	***	139	***	Neg.	***	106	***	98
7	April'09-June'09	***	122	***	120	***	6	***	103	***	94
8	July'09-Sep'09	***	95	***	90	***	119	***	99	***	92
9	Oct'09-Dec'09	***	93	***	88	***	28	***	82	***	79

- e) The argument is legally and factually untenable. By their own version, it was a problem of “global recession”. We are not concerned with “global recession” in the present. It was not a problem of India specific recession. Further, even if global markets suffered in this period, the Indian Market did not suffer from recession. So, as far as Indian producers are concerned, their performance should not have got impacted due to alleged recession.
- f) The issue has already been clarified in previous submissions. The revised import statement has already been filed. Briefly, there were repeated import transactions in the IBIS import data itself on which the petitioner relied while submitting the application.
- g) Petitioner has adopted most conservative estimates. The actual information in this regard is with the parties concerned. Petitioner cannot even provide the relevant evidence, as petitioner is not privy to the relevant information.
- h) The petitioner has disclosed such information as is not commercially sensitive. Information which is commercially sensitive or disclosure of which can significantly impact the business interests of the member companies cannot be disclosed.
- i) There is no such contravention. The current initiation is after 12 months of the previous findings by the authority.
- j) The argument is without basis. Written Submissions are relied upon, wherein the domestic industry has shown that a very significant portion of imports have taken place in the western region. In fact, there are negligible

imports at Eastern customs ports. It is also pointed out that consumption by aluminium industries comprises only ***% of total consumption of caustic soda. The relevant information is reproduced below –

S.No	End Users	Consumption %
1	Pulp & Paper	20.25
2	Alumina	17.92
3	Organics	10.21
4	Inorganics	11.32
5	Soaps & Detergents	7.43
6	Textiles	20.33
7	Water Treatment	1.78
8	Miscellaneous	10.70

D.3 Examination by the Authority:

- a. As regards DG Safeguards findings the Authority notes that DG Safeguard's findings relate to surge in imports which is different from the ground on which the Designated Authority for anti dumping recommends measures.
- b. The total production data of the domestic industry available in par 364 of DG Safeguards findings dated 09th April, 2010 have been compared with the same submitted to DGAD and it is found that there are three years which are common in both i.e. year 2006-07, 2007-08 and 2008-09. The Authority finds a slight variation in the production data during these three years which is approximately**% to **%. This variation could be due the fact that the PUC in DG Safeguards investigation was Caustic Soda Lye while the same in the present investigation is both lye and flakes.
- c. As regards inflated import volumes claimed by the domestic industry, the Authority notes the petitioner has acknowledged the error caused due to repetition of import transactions at the end of the data agency from which the import data was sourced by them.
- d. The import volume from Canada during POI, as referred to above, has been found below de-minimis vis-à-vis total volume of imports during POI as reported by IBIS which has reported a higher volume of total imports than DGCI&S. The Authority has accepted the IBIS source which has captured a higher volume of total imports compared to DGCI&S when transaction by transaction data is available from both the sources.

D.4 Post Disclosure comments of interested parties:

11. The following are the comments of M/S Vedanta Aluminium Limited and other interested parties in response to Disclosure statement:-
 - a) Vedanta Aluminium Limited has not been taken as interested party as per Disclosure.

- b) Caustic Soda Lye and Flakes are two distinct products and are not like articles, as their products with distinct properties, uses and price.
- c) Chlorine and Caustic Soda are treated co-products worldwide. They should be treated so in India as well so that the respective cost of production as separately computed and common cost upto the point of separation has to be divided on an equitable basis.
- d) Domestic manufacturers in general cannot manage the Chlorine disposal and for this reason cannot run on full capacity.
- e) Economics of Caustic Soda production is linked with economics of Chlorine. Hence, the realization and cost are measured for both products on a composite basis.
- f) POI has been selected covering parts of two financial years so that Domestic industry can manipulate the data.
- g) Documents available in public domain show no injury to domestic industry and in fact they are making huge profit and return on investment. The case of individual Companies which have recorded higher ROCE has been quoted.
- h) Imports have not caused injury to the domestic industry. Rather, imports are caused by shortage of material in India. Imports of Caustic Soda in India are necessitated due to
 - i. Effective limited capacity of DI on account of Chlorine off-take issues.
 - ii. Geographical imbalances in demand and supply
- i) Real cause of injury to Domestic industry in India is high cost of power and not the dumped imports.
- j) For calculation of NIP, market price of power has to be taken as per RIL Vs. Designated Authority – 2006 (202) ELT 23(SC). For costing of Caustic Soda, Chlorine be treated as co-product.
- k) The Authority must state the proportion of production of the applicants in total Indian production. In the present investigation the applicants have a share of less than 50% of total Indian production. Hence, they do not have any standing in the present investigation.
- l) The Authority at one place has noted that domestic industry has reduced prices and other place that the increase in price was less than the increase in cost of sales.
- m) Import data figures have been continuously modified until disclosure statement.
- n) Exclusion of Canada from the investigation renders initiation bad in law.
- o) Exporter have independently called IBIS data and it is noted that Canada still remains above de- minimis and prices from Canada are lower than that of imports From Taiwan.
- p) Designated Authority should specifically disclose the methodology in adopting and compiling the data and notify the transaction entries considered along with quantities and prices.

- q) Reference is made to ministerial conference at fourth session at Doha in November 2001 on implementation issues where it was agreed that no investigation is to be initiated within 365 days of previous negative finding. Sun set review in respect of caustic soda from EU, Indonesia, and Chinese Taipei arrived at a negative finding in respect of Taiwan. Present application is filed within 365 days of the said negative finding.
- r) Designated authority has failed to distinguish exactly how much injury has been caused by the present subject countries and how much is being caused from other countries in parallel investigations. Injury to domestic industry is due to other countries in the parallel investigations.
- s) For determining dumping margin lye and flaks were considered together which is not proper
- t) Selling price of Domestic industry is over NIP.

D.5 Post Disclosure submissions of Royal Norwegian Embassy:-

12. The following are submissions of Royal Norwegian Embassy:-

- i. Norwegian Co. Elkem AS has also responded but it is not reflected in Disclosure Statement.
- ii. Annex. 1, Para 4, states incorrectly that there has been no comments filed on Product under Consideration. Norway has stated that "investigation covers Caustic Soda in two **distinct** forms. Solid is traded under HS Cod 2815.11 and lye under 2815.12.
- iii. It is not appropriate to conclude with regard to Borregaard that there "is no export to India by the company during Period of Investigation" and the "Authority does not consider it appropriate to give individual Dumping Margin to the Co". It is contrary to Anti Dumping Agreement.
- iv. Company did not receive any deficiency notice by the authorities.
- v. There has been no export by both the companies to India and thus there should be no anti dumping investigation against them.
- vi. Norway questions the price information from Chlor Alkali as basis for determination of normal value. The price information reported is without any reference to which of the prices that have been used for calculations by the authority.
- vii. Complainant showed no imports of Caustic Soda in solid form from Norway. It is confirmed by official Norwegian export statistics. Thus, no basis for claiming neither dumping nor injury or causal link for Caustic Soda in solid form and duty to be imposed thereafter.
- viii. Both the companies in their replies have shown that they are not dumping in Indian market or even exporting.

D.6: Post Disclosure comments of the Petitioner:-

13. Following are the comments of petitioner:-

- i. Anti-dumping duty may be imposed only on fixed amount basis.

- ii. Valuation of captive inputs at their market values for determination of non-injurious price (NIP).
- iii. The Authority must consider gross fixed assets or in the alternative consideration of net fixed assets at their present market value for determination of NIP.
- iv. Since foreign producers of non-cooperative, the Authority must proceed with best available information.

D.7 Examination by Authority:

14. The Authority has examined the post-disclosure comments of the interested parties as under:-

- a) The submissions of Vedanta Aluminium Ltd have been duly examined in the present findings.
- b) The Authority notes that Caustic Soda Lye and Caustic Soda Flakes are only two different forms of Caustic Soda. The former is processed further to obtain solid form. The two are essentially same in terms of technical characteristics, manufacturing process, technology, function and use. Mere difference in form of the product does not render them dislike articles. In all the previous investigation, the Authority has considered Lye and solid form of Caustic Soda as one product.
- c) Treatment of Chlorine as a co-product/by-product from the point of view of costing and determination of NIP has been duly examined in the Disclosure statement. The Authority upholds the position already spelt out in this regard in the Disclosure statement.
- d) As regards POI, it is noted that there is no provision under the Rules which bars a POI covering two financial years. The only consideration for the Authority in regard to POI is that POI should be the latest vis-à-vis the date of initiation of investigation, generally not more than six months old vis-à-vis the date of initiation.
- e) Injury has been assessed for the petitioner companies as a whole and not individual company-wise.
- f) The causes of injury to domestic industry have been reflected in the injury analysis and analysis of causal link.
- g) Regarding calculation of NIP on the basis of market price of power, the Authority notes that NIP has been determined in accordance with relevant provision under the Rules.
- h) The proportion of applicant companies in the total Indian production is indicated in para 8 of the present findings.
- i) There is no contradiction between what was stated in para 52 (ii) vis-à-vis para 37 of the Disclosure statement. Para 52(ii) was intended to convey that though the selling price of the domestic industry was increasing in absolute terms, it was lower than the increase in the cost of production. Thus the reduced price referred to in the said para was in a relative context of increased cost of production. In this context only it was stated that the Domestic Industry was forced to sell at reduced prices vis-à-vis the increased cost of production, which reflected the price suppression effect of dumped imports.

- j) As regards Borregaard, the Authority notes that the exporter himself claimed no exports of the subject goods during period of investigation. Therefore, the Authority is not in a position to grant individual dumping margin to Borregaard. Cases of such producers/exporters who have not exported the subject goods during the POI are covered under Article 9.5 of WTO Agreement. The Authority can grant individual dumping margin only to those companies who have exported the product during POI. The question of deficiencies in the questionnaire response would arise only if the Authority is required to determine dumping margin for the responding company.
- k) The Authority has considered the average of the month-wise high and low prices mentioned in the Chlor Alkali for the relevant period and has adopted the average price for the period of investigation by considering month-wise prices reported.
- l) The Authority notes that no exporter from Norway nor the Government of Norway has claimed that no exports of Lye form of Caustic Soda was made during the relevant period. Mere claim that solid forms of Caustic soda were not exported during POI is insufficient for the purpose.
- m) Regarding the petitioner's point relating to determination of NIP, it is noted that the same has been determined on the basis of the relevant provision under the Rules.
- n) For the purpose of present findings, the authority has considered the correct import data after compiling and analyzing the same obtained from different sources. The Authority has examined the transaction wise import data from both DGCI&S source as well as from IBIS. It is noted that IBIS has reported a higher volume of total import than the DGCI&S. Therefore, the Authority has relied upon IBIS source in the present investigation.
- o) The Authority has examined the IBIS data submitted by the exporter and it appears the import volume in original IBIS data, in several transactions, has been treated as LMT and has been substantially reduced in order to convert it into DMT without referring to per unit price obtained after such conversion. The authority notes that per unit price obtained after such conversion /revision by the exporter is abnormally high i.e. approximately in the range of Rs. 21,000 to 30,000 in the case of countries such as China, Egypt, Germany, Indonesia, Qatar, Saudi and USA. Such prices are found to be quite high vis-a-vis the prevailing price during the relevant period. The Authority does feel that there is a need for such revision in original IBIS data only in respect of four countries namely Korea RP, Norway Taiwan, and Thailand where the per unit price as per original data is abnormally low i.e. approximately in range of Rs.6000- Rs. 8000, suggesting that the volume reflected against those countries is in LMT. After rationalization of original IBIS data relating to quantity so as to arrive the volume in terms of DMT on the basis of the prevalent price/DMT, the authority has arrived at the total import volume of 371 157 DMT of the subject goods during POI as per IBIS data. Thus, the authority has rationalized the original IBIS data relating to volume of imports in terms of DMT with reference to per unit price reflected therein. This is the methodology

followed by the authority to compile the figure of total import of caustic soda into India.

- p) The agreement in Doha ministerial conference stipulated a gap of at least 365 days between the negative finding and the date of initiation and not the date of application. The authority notes that the present investigation relating, inter-alia, to Taiwan was initiated after 365 days from the date of negative finding.
- q) Injury to domestic industry in form of price undercutting, price suppression and on various economic parameters caused by the dumped imports from the subject countries is established in injury and causal link analysis dealt later in this finding. Under the Rules, the authority is required only to find injury to the domestic industry resulting from dumped imports and not to segregate injury caused by subject countries in different investigations.
- r) Lye and flakes are only two different forms of the subject goods and both get covered in the product under consideration. Flakes are obtained after processing the lye further.

E. Normal Value, Export Price and Dumping Margin

13. The Authority sent questionnaire to the known exporters from subject countries, advising them to provide information in the form and manner prescribed. Response to the exporters' questionnaire was received from the following companies:

- i. Formosa Plastics Corporation ("FPC") from Taiwan (producer).
- ii. Tricon Energy Limited, USA (exporter)
- iii. Borregaard Industries Ltd., Norway (producer/exporter)

As regards the Companies at (i) & (ii) above, the Authority notes that certain vital deficiencies were pointed out to these companies in respect of the questionnaire response filed by them. A last opportunity was also given to them to make good these deficiencies. However, the same have not been complied with. Therefore, the Authority treats the responses filed by Formosa Plastics Corporation ("FPC") from Taiwan (producer) and Tricon Energy Limited, USA (exporter) as incomplete. On the other hand, Borregaard Industries Limited, Norway, in their questionnaire response, have indicated that there is no export to India by the Company during the POI. Therefore, the Authority does not consider it appropriate to give an individual dumping margin to Borregaard Industries Ltd. Further, The Authority notes that Elkem AS, a sister concern of Borregaard, has responded stating that they have no export of Subject Goods to India during POI. Therefore the Authority does not consider it appropriate to give an individual dumping margin to Elkem AS. In the light of these facts, the Authority proceeds to determine the dumping margin for the producers/exporters of the subject countries as follows:-

E.1 Normal value

Thailand

14. The Authority notes that no producer/exporter from Thailand has submitted the exporters' questionnaire response. Therefore, the Authority

proceeds to determine the normal value for all producers/exporters of Thailand on the basis of best information available. The Authority considers the price reported by Chlor-Alkali (published by Hariman Chemsult) as a reliable indicator of the prevailing prices of caustic soda in the domestic markets in various countries including Thailand. Accordingly, the Authority considers the price information from Chlor-Alkali and determines normal value for all producers/exporters of Thailand at USD *****/DMT (ex factory).

Chinese Taipei

15. The Authority notes that only one producer/exporter namely, M/S Formosa Plastics Corporation ("FPC") (Producer) from Taiwan has submitted exporter's questionnaire response. The exporter in this case, namely M/S Tricon Energy Limited, has also furnished the exporter's questionnaire response. However, the Authority found both these responses to be deficient in respect of vital information requisite for determination of normal value/export price. They were given reasonable opportunity to comply with the deficiencies. However, the requisite information was not submitted by the said producer/exporter. Therefore, the Authority treats their questionnaire responses as incomplete and proceeds to determine the normal value for all producers/exporters of Chinese Taipei on the basis of best information available with it. The Authority considers the price reported by Chlor-Alkali (published by Hariman Chemsult) as a reliable indicator of the prevailing prices of caustic soda in the domestic markets in various countries including Chinese Taipei. Accordingly, the Authority has considered the price information from Chlor-Alkali and determines normal value for all producers/exporters of Chinese Taipei at USD ****/DMT (ex factory).

Norway

16. The Authority notes that only one producer/exporter from Norway, namely, Borregaard Industries Limited has submitted exporter's questionnaire response and its sister concern, namely, Elkem AS has responded stating that the company has no export of Subject goods to India during the POI. In their response, Borregaard has also indicated that there is no export to India by the Company during the POI. Therefore, the Authority does not consider it appropriate to give an individual dumping margin to Borregaard Industries Ltd nor to Elkem AS. Further, the Authority notes that no other producer/exporter from Norway has submitted the exporters' questionnaire response. Therefore, the Authority proceeds to determine the normal value for all producers/exporters of Norway on the basis of best information available. The Authority considers the price reported by Chlor-Alkali (published by Hariman Chemsult) as a reliable indicator of the prevailing prices of caustic soda in the domestic markets in various countries/territories including EU. Accordingly, the Authority has considered the price information from Chlor-Alkali and determines normal value for all producers/exporters of Norway at USD *****/DMT (ex-factory).

E 2. EXPORT PRICE

Submission of interested parties.

17. While arriving at ex- factory export price, petitioner has claimed deductions for which petitioner has not provided any evidence in the petition.

Submission of the petitioner.

18. Petitioner has adopted most conservative estimates. The actual information in this regard is with the parties concerned. Petitioner cannot even provide the relevant evidence, as petitioner is not privy to the relevant information.

Examination by Authority

19. So far as adjustments on export price are concerned, the Authority notes that no exporter from the subject countries has submitted information in this regard. The questionnaire response submitted by Tricon Energy Limited USA(exporter) being found incomplete by the Authority, the information in regard to adjustments claimed therein are not considered by the Authority. In the circumstances, the Authority has taken into account adjustments and estimated the amount of such adjustments as considered reasonable in the light of available information. Accordingly, the Authority determines export price at ex-factory level subject country wise as follows:

Thailand

20. The Authority notes that no producer/exporter from Thailand has submitted questionnaire response giving details of export price. Therefore, the Authority determines the export price for all producers/exporters of Thailand at USD **** (CIF)/DMT on the basis of information provided by the IBIS. The Authority has considered the adjustments on landing charges @ **%, marine insurance @ **%, ocean freight @ USD *** per MT, inland freight @ USD ***per MT and commission @ **%. Thus, net export price is determined as USD ****/DMT for all exporters of Thailand.

Chinese Taipei

21. As aforesaid, the Authority finds the questionnaire response submitted by Formosa Plastic Corporation incomplete. Therefore, Formosa Plastic Corporation has been treated at par with other producers/exporters of Chinese Taipei. The Authority also notes that no other producer/exporter from Chinese Taipei has submitted questionnaire response giving details of export price. Therefore, the Authority determines the export price for all producers/exporters of Chinese Taipei at USD ***** (CIF)/DMT on the basis of information provided by the IBIS. The Authority has considered the adjustments on landing charges @ **%, marine insurance @ **%, ocean freight @ USD *** per MT, inland freight @ USD ***per MT and commission @ **%. Thus, net export price is determined as USD ****/DMT for all exporters of Chinese Taipei..

Norway

22. The Authority notes that Borregard Industries Limited from Norway has responded stating that they have not exported the subject goods to India during the POI. It is also noted that no other producer/exporter from Norway has submitted questionnaire response giving details of export price. Therefore, the Authority determines the export price for all producers/exporters of Norway at USD *** (CIF)/DMT on the basis of information provided by the IBIS. The Authority has considered the adjustments on landing charges @ **%, marine insurance @ **%, ocean freight @ USD *** per MT, inland freight @ USD *** per MT and commission @ 3%. Thus, net export price is determined as USD **** /DMT for all exporters of Norway.

E3. Dumping Margin

23. Comparing the normal values and export prices at ex-factory level as determined above, the dumping margin for the producers/exporters of subject countries is determined as follows:

(US \$ /DMT)						
S No.	Country	Producers/Exporters	Normal Value	Export Price	Dumping margin	Dumping Margin – (%) Range
1	Thailand	Any producer/any exporter	*****	****	*****	90 -100
2	Chinese Taipei	Any producer/any exporter	****	****	*****	60 -70
3	Norway	Any producer/any exporter	****	****	*****	250 - 260

F. INJURY

F.1. Views of the petitioner

24. The domestic industry has submitted that:

- i. Volume of dumped imports from subject countries have increased significantly. Imports have increased significantly in relation to total imports, production and consumption in India.
- ii. As a result of increase in imports in relation to consumption and production, share of domestic industry has declined.
- iii. Weighted average import price after including basic customs duty have been significantly below the net sales realization of domestic industry, thus causing significant price undercutting.
- iv. Price undercutting has led to both price suppression and depression in the market. Whereas the cost of production have increased, the selling prices have declined.

- iv. Production and domestic sales increased, but capacity utilisation declined. Increase in production and domestic sales was less than increase in demand. Resultantly, market share of the domestic industry declined.
- v. Performance of the domestic industry in terms of profitability for product under consideration has deteriorated over the injury period. Further, whereas the domestic industry had profits till 2008-09, it suffered financial losses in proposed POI
- vi. Market share of the domestic industry and domestic producers as a whole, both, has significantly declined; whereas that of subject imports and dumped imports has materially increased.
- vii. Employment level of the domestic industry remained more or less constant.
- viii. Productivity of the Domestic Industry increased with increase in production.
- ix. ROI (NFA Basis) of the domestic industry has significantly deteriorated over the injury period. Similar is the situation of cash profit as well. The price depression/suppression effect of dumped subject imports has resulted in significant losses to the domestic industry.
- x. Inventory with the domestic industry increased significantly.

F.2. Issues raised by other interested parties and government of subject countries

- 25. The exporters, importers and other interested parties have submitted as follows:
 - a. NALCO had imported a min. of 25% of its total requirement as domestic manufacturers are not able to meet total requirements.
 - b. GACL has about 14.11% of market share in domestic industry and have stated that due to recession sales and production reduced in 2008-09 as compared to 2007-08. Designated Authority should consider the prices before investigation period ideally for period of January 2008 to Sept. 2008
 - c. Aditya Birla in 2009-10 recorded 23.15% ROCE, Grasim Recorded 30.9% in 2009-10 and hence, no injury.
 - d. Aditya Birla stated the problems and risks faced by it during 2009-10 as increase in raw material, substantial reduction in coal quantity and import threat of Caustic Soda.
 - e. SIEL is lagging behind other domestic producers for reasons stated in their annual report for year ending Sept. 2009.
 - f. Any action by Designated Authority to apply 'cost of production plus reasonable profit methodology taking 22% return on investment is arbitrary.
 - g. Share of exports of subject goods from Taiwan does not reflect any substantial increase in Period of Investigation and is below 2% of the total sales of Domestic Industry.
 - h. Domestic Industry's share in demand is stable over injury period and does not show injury due to imports from the subject countries.

- i. Capacity utilization has remained stable over the injury period and has not been affected due to imports.
- j. Sales volume has increased steadily over the injury period showing no injury.
- k. Pricing trends in caustic soda are split on the basis of spot prices and contract prices. Profitability has declined not due to dumping but due to other reasons as stated in annual reports.
- l. Production capacity has been added by the petitioner companies and it has been willfully suppressed by the petitioner.
- m. The cost of power, which is the major cost in production of Caustic Soda, is high in India and any injury to Domestic Industry is not due to imports but due to high cost of power.
- n. Global imbalance and lack of logistics with Domestic Industry for supply is the cause of injury to the domestic industry, as most of the manufacturers are located on west coast, whereas aluminium industry is located on east coast, which leads to high logistics cost for supply of Caustic Soda using road transport.
- o. Chlorine should be considered as a joint product, and not a by-product, in determination of NIP and in the determination of profits in caustic soda as the same is treated so all over the world.

F.3. Examination by the Authority

- a. The Authority notes that higher freight due to logistic and locational disadvantage of domestic industry also applies to the imports a large part of which lands on the Western coast.
- b. As regards factoring in of chlorine in the injury analysis and NIP, the Authority notes that chlorine has been treated as a by-product/joint product as per the cost records maintained by the interested parties. This has been the consistent practice of the Authority in all the previous investigations concerning the subject goods hitherto conducted. The Authority also notes that the CESTAT order in this regard has been appealed against in Hon'ble Supreme Court and the matter has since been stayed by Hon'ble Supreme Court.
- c. The Authority notes that present petition has been filed by Alkali Manufacturing Association of India on behalf of the domestic industry. Gujarat Alkalies & Chemicals Limited, Grasim Industries Limited, DCM Shriram Consolidated Limited, SIEL Industrial Complex (A Unit of Mawana Sugars Limited), Bihar Caustic & Chemicals Limited (now known as Aditya Birla Chemicals (India) Limited). These producers are eligible domestic producers under Rule 2(b). Further, production of these producers collectively account for a major proportion in Indian production. These companies have been considered as participating companies.
- d. Post initiation, Solaris Chemtech Limited and DCW Limited also provided their injury information. However, the interested parties

present at the time of oral hearing objected to addition of information from more domestic producers after initiation and demanded that the Authority should not consider their information for injury assessment. Considering the objection raised by the opposing interested parties, the Authority decided not to consider the information filed by DCW Ltd. and Solaris Ltd. and informed the interested parties about the same.

- e. The participating companies collectively constitute domestic industry under the Rules. The authority has examined injury to the domestic industry with regard to these participating companies. The issues raised by interested parties in relation to injury have been duly examined by the Authority in appropriate places in the findings.

F.4 Cumulative assessment of Injury

- 26. Annexure II (iii) of the Anti Dumping Rules requires that in case imports of a product from more than one country are being simultaneously subject to anti dumping investigations, the Designated Authority will cumulatively assess the effect of such dumped imports, in case it determines that:
 - (i). 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 imports of the like article or where the export of the individual countries less than three percent, the imports cumulatively accounts for more than seven percent of the imports of like article, and;
 - (ii). 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.

Following are relevant in this regard:

- (a) The margin of dumping from each of the subject countries is more than the limit prescribed above;
- (b) The volume of imports from individual countries is more than de-minimus.
- (c) The Authority notes that it is appropriate to cumulatively assess the effects of imports of the subject goods from Thailand, Taiwan and Norway on the domestically produced like article, in the light of conditions of competition between the imported article and the like domestic article.

- 27. Annexure-II of the AD Rules provide for an objective examination of both (a) the volume of dumped imports and the effect of the dumped imports on prices in the domestic market for the like products; and (b) the consequent impact of these imports on domestic producers of such products. With regard to the volume effect of the dumped imports, the Authority is required to examine whether there has been a significant increase in dumped imports, either in absolute term or relative to production or consumption in India. With regard to the price effect of the dumped

imports, the Authority is required to examine whether there has been significant price undercutting by the dumped imports as compared to the price of the like product in India, or whether the effect of such imports is otherwise to depress the prices to a significant degree, or prevent price increases, which would have otherwise occurred to a significant degree.

28. As regards the impact of the dumped imports on the domestic industry para (iv) of Annexure-II of the AD Rules states as follows.

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

29. All economic parameters affecting the Domestic Industry as indicated above such as production, capacity utilization, sales volume, etc. have been examined as under.

F5. Volume Effects of Dumped Imports:

Import Volumes and Market Share

30. Annexure-II (ii) of the AD Rules provides that “while examining the volume of dumped imports, the said Authority shall consider whether there has been a significant increase in the dumped imports either in absolute term or relative to production or consumption in India ...” Thus, with regard to the volume of the dumped imports, it has been examined whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India. For the purpose of volume injury analysis the Authority has relied on import data sourced from IBIS and volume of imports of the subject goods from the subject country have been analyzed as under

Particulars	Unit	2006-07	2007-08	2008-09	Oct'08-Dec'09 Annualised
Imports					
Subject Countries	MT	10	3,612	16,941	77,590
Countries under parallel dumping investigations	MT	31725	17357	23463	1,14,565
Dumped imports under investigations	MT	31735	20969	40404	1,92,154

Other Countries	MT	1,56,593	1,26,053	1,36,037	1,04,771
Total Imports	MT	1,88,328	1,47,022	1,76,441	2,96,926
Market Share of subject Imports					
Subject Countries	%	0.01	2.46	9.6	26.13
Countries under parallel dumping investigations	%	16.85	11.81	13.3	38.58
Dumped imports under investigations	%	16.85	14.26	22.9	64.71
Other Countries	%	83.15	85.74	77.1	35.29
Total Imports	%	100	100	100	100
Share of subject dumped imports in relating to production of domestic industry	%	0	0.4	1.85	8.32
Share of subject dumped imports in relating to consumption in India	%	0	0.18	0.79	3.44

28. Imports of the subject product from subject countries have increased significantly in absolute volumes. While there were practically no imports from subject countries in 2006-07, volume gradually increased from 2007-08 and were quite significant in period of investigation. It is noted that imports from other countries separately under midterm review investigation have also increased significantly. It is also noted that imports from third countries, though significant, have declined over the injury period.
29. Share of subject countries in imports of the product has increased significantly from negligible level in base year to over 26% in period of investigation. Imports from other countries for which midterm review is being conducted have also increased over the injury period. The cumulative imports from countries at present under investigation have increased from 16.85% in 2006-07 to 64.71% in period of investigation.
30. Imports of subject goods from subject countries in relation to production as well as consumption in India have also increased during the POI compared to the base year.
31. On the basis of the above, the authority concludes that imports of the product have increased significantly in absolute terms and in relation to production and consumption in India.

F6.Price effect of imports

32. With regard to the effect of the dumped imports on prices, the Designated Authority is required to consider whether there has been a significant price undercutting by the dumped imports as compared with the price of the like products in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. The impact of dumped imports on the prices of the domestic industry has been examined with reference to the price undercutting, price suppression and price depression, if any. For the purpose of this analysis, the cost of production, net sales realization (NSR) and the non-injurious price (NIP) of the domestic industry have been compared with the landed cost of imports from the subject countries. The net sales realization was arrived after deducting all rebates and taxes. Landed value of imports has been calculated by adding 1% handling charge and applicable basic customs duty to the CIF value of subject imports. The landed value of imports was compared with net sales realization of the domestic industry and it was found that the dumped imports are undercutting the prices of the domestic industry.

Price undercutting

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

(Rs./MT)

SN	Particular	Landed price	Net Selling price of DI	Price Undercutting (amount)	Price Undercutting (%)Range
1	Thailand	*****	*****	*****	10 - 20
2	Chinese Taipei	*****	*****	*****	20 - 30
3	Norway	*****	*****	*****	30 – 40
4	Subject Countries	*****	*****	*****	20 - 30

34. It is seen that the landed price of imports of the subject goods are significantly below the selling prices of the domestic industry, resulting in significant price undercutting.

Price suppression

In order to determine whether the dumped imports are suppressing the domestic prices, the Authority determined whether the effect of such imports is to prevent price increases, which otherwise would have occurred. For the purpose, the import prices of subject goods have been compared with the trends in cost of production and selling price of the domestic industry.

SN	Particulars	Unit	2006-07	2007-08	2008-09	POI
1	Cost of Sales	Rs./MT	*****	*****	****	*****
	Trend	Indexed	100	97	126.72	133.40
2	Net Selling price	Rs./MT	*****	*****	*****	*****
	Trend	Indexed	100	96.19	121.12	112.38

35. From the above, it is noted that there is an increase in both the cost of sales as well as the selling price of the domestic industry during POI. However, the increase in selling price is proportionately lower than the increase in the cost of sales. Thus the domestic Industry has not been able to realize prices of the subject goods commensurate with the increase in the cost of production. Thus, price suppression has taken place during the POI.

F7. Economic parameters of the domestic industry

36. As regards the impact of the dumped imports on the domestic industry para (iv) of Annexure-II of the AD Rules states as follows.

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

37. The various injury parameters relating to the domestic industry are discussed below.

Production, capacity utilization and Market share of the Domestic Industry

Particulars	Unit	2006-07	2007-08	2008-09	Oct'08-Dec'09	Oct'08-Dec'09 Annualised
Capacity	MT	9,49,000	10,05,550	10,62,869	13,73,665	10,98,932
Production	MT	8,14,818	9,04,459	9,20,251	11,84,024	9,47,219

Capacity Utilization	%	86%	90%	87%	86%	86%
Domestic Sales Volume – Petitioner	MT	7,60,366	8,57,987	8,67,228	11,07,304	8,85,843
Domestic Sales- Other Domestic producers	MT	10,26,888	10,44,041	10,89,029	13,42,853	10,74,282
Total import	MT	1,88,328	1,47,022	1,76,441	3,71,157	2,96,926
Demand	MT	19,75,582	20,49,050	21,32,698	28,21,314	22,57,051
Market share of domestic industry	%	38.49	41.87	40.66	39.25	39.25

38. The authority notes that the domestic industry has added capacity over the injury period. Production of the domestic industry has shown increase over the period. Capacity utilization has remained stable during the injury period. Sales of the domestic industry in the domestic market show continued increase. The market share of the domestic industry has remained more or less stable during the injury period.

Profit/Loss, cash profit and return on investment

SN	Particulars	Unit	2006-07	2007-08	2008-09	Oct'08-Dec'09
1	Profit/loss – lye	Rs/MT	*****	*****	*****	*****
	Trend	Indexed	100	94	105	53
2	Profit/loss – flakes	Rs/MT	*****	*****	*****	*****
	Trend	Indexed	100	108	133	-31
3	Profit before interest	Rs.Lacs	*****	*****	*****	*****
	Trend	Indexed	100	105	122	73
4	Profit/Loss – Lye plus Flake	Rs/Lakh	*****	*****	****	****
	Trend	Indexed	100	107	124	64
5	Cash Profit	Rs.Lacs	*****	*****	*****	*****
	Trend	Indexed	100	110	135	95
7	Capital employed NFA	Rs.Lacs	*****	*****	*****	*****
	Trend	Indexed	100	99	125	118

	Return on investments – NFA	%	*****	*****	*****	*****
8						
	Trend	Indexed	100	106	98	50

39. The authority notes that the product is produced in two forms – lye and solid. In view of significant difference in the associated cost and price of the two forms, the authority has assessed profitability of the two forms separately. It is noted that profits of the domestic industry per unit of production is significantly reduced during the POI compared to the base year. As a result profits before interest tax also dropped significantly in period of investigation. As a result of decline in profitability, return on investment, which was improving between 2006-07 to 2008-09, dropped significantly in the period of investigation.

40. The authority has determined impact of dumping on the cash flow by considering cash profits generated from production and sales in the domestic market. It is noted that cash profits also declined in the period of investigation.

41. On the basis of the above, the authority concludes that the performance of the domestic industry deteriorated on account of profits, return on investment and cash flows.

Average Inventory

SN	Particulars	UOM	2006-07	2007-08	2008-09	Oct'08-Dec'09 Annualized
1	Average Inventory	MT.	2,864	5,341	6,261	10,579
	Trends	Indexed	100	186	219	369
	Inventory per day	MT	7.85	14.63	17.15	28.98

42. From the above it is seen that both average inventory as well as inventory per day have drastically increased during the POI.

Employment and wages

SN	Particulars	UOM	2006-07	2007-08	2008-09	Oct'08-Dec'09 Annualized
1	Number of Employee	Nos.	2,257	2,064	2,002	1,995
	Trends	Indexed	100	91	89	88
2	Wages	Rs./Lacs	*****	*****	*****	*****
	Trend	Indexed	100	106	132	129
3	Wage cost per unit of production	Rs./MT	*****	*****	*****	*****

	Trend	Indexed	100	95	117	112
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43. It is noted that the numbers of employees declined over the period. Further, wages paid have increased which appears consistent with the normal increase in wages.

Magnitude of Dumping

44. Magnitude of dumping as an indicator of the extent to which the dumped imports can cause injury to the domestic industry shows that the dumping margin determined for the subject countries are significant.

Factors affecting prices

45. In this case price effects of dumped imports from subject countries are reflected in the price undercutting and price underselling effects which are found to be positive. Further, the dumped imports have suppressed the domestic selling price in as much as the domestic industry has not been able to realize selling prices commensurate with increase in the cost of sales.

F8. Conclusion on injury parameters

46. It is thus seen that:

- i. Imports from subject countries have increased in absolute terms. The increase in imports is significant. Imports have increased in relation to production and consumption in India.
- ii. Imports are undercutting the prices of domestic industry to a significant extent.
- iii. Domestic industry has been forced to reduce the prices in a situation where its cost of production has increased. The imports are thus suppressing the domestic industry's prices.
- iv. Profits, return on investment and cash profits of the domestic industry declined in POI compared to the base year.
- v. Inventories with the domestic industry have increased substantially.
- vi. Dumping margins as a parameter of injury are quite significant.
- vii. Production of the domestic industry increased during POI compared to the base year and the capacity utilization has remained more or less stable.
- viii. Domestic sales increased over the injury period.
- ix. Wages and productivity does not show adverse impact of dumping. However, deterioration has taken place on other vital parameters of injury including the financial parameters.

47. In view of above, Authority concludes that the domestic industry has suffered material injury on vital economic parameters.

F9. Other Known Injury factors and Causal Link

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

i. Volume and prices of imports from other sources

During POI, imports of the subject goods from countries other than the subject country have been significant in volume. The Authority therefore examined imports from third countries. The Authority notes that imports beyond de-minimus levels have been reported from USA, Saudi Arabia, South Korea, China and Indonesia. The Authority is conducting midterm review investigation in respect of imports from USA, Saudi Arabia, South Korea. As regards China & Indonesia, the Authority notes that anti dumping duties are already in place.

ii. Contraction in demand

Demand for the subject goods has shown positive growth during the entire injury investigation period and therefore, the injury to the domestic industry cannot be attributed to the lack of demand in the country.

iii. Change in pattern of consumption

The data on consumption does not show any significant change in the pattern of consumption of the product.

iv. Developments in technology

There is no evidence of significant changes in technology submitted by any interested party, which could have caused injury to the domestic industry.

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

The subject goods are freely importable. The domestic industry constituents are major producers of the subject goods and account for significant domestic production and sales. No other evidence of conditions of competition or trade restrictive practices has been brought to the attention of the Authority by any interested party.

vi. Export performance of the domestic industry

The export sales of the domestic industry is too insignificant in volume to cause any injury to the domestic industry. In any case, it is established that

the domestic industry's performance has deteriorated on the domestic sales.

Productivity of the Domestic Industry

Productivity of the domestic industry in terms of production per employee or production per day has improved. Possible decline in productivity cannot be a factor causing injury to the domestic industry.

49. The above non-attribution analysis shows that no other known factors appear to have caused injury to the domestic industry

Factors establishing causal link

50. Analysis of the performance of the domestic industry over the injury period shows that the performance of the domestic industry has materially deteriorated on vital economic parameters. The causal link between dumped imports and the injury to the domestic industry is analysed on the following grounds:

(i) The volume of dumped import from the subject countries and other countries under investigation increased significantly.

(ii) The subject imports were significantly undercutting the prices of the domestic industry. Consequently, the domestic industry has been forced to sell at reduced prices vis-à-vis the increased cost of production. The dumped imports, thus, has caused price suppression.

(iii) Performance of the domestic industry with regard to vital financial parameters such as profits, cash flow and return on investments deteriorated as a result of price suppression.

F10. Injury Margin :

51. Following the lesser duty rule, the non-injurious price determined by the Authority for the domestic industry has been compared with the landed value of imports for determination of injury margin. The country-wise landed value and injury margin is determined as under:

INJURY MARGIN

Country	Producer	NIP Rs./DMT	Landed Price Rs./DMT	Injury Margin Rs./DMT	Injury Margin US\$/DMT
Thailand	All producers/ exporters	*****	*****	*****	*****
Taiwan (Chinese Taipei)	All producers/ exporters	*****	*****	*****	*****
Norway	All producers/	*****	*****	*****	*****

	exporters				
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G. Conclusions

52. The Authority has, after considering the foregoing, come to the conclusion that:

- a. The subject goods have been exported to India from the subject countries below its normal value;
- b. The domestic industry has suffered material injury;
- c. The injury has been caused by the dumped imports from subject countries.

H. Indian Industry's Interest & Other Issues

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

54. The Authority notes that the purpose of anti-dumping duties, in general, is to eliminate injury caused to the Domestic Industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Imposition of anti-dumping measures would not restrict imports from the subject countries in any way, and, therefore, would not affect the availability of the products to the consumers.

I. Recommendation

55 Having regard to the lesser duty rule followed by the authority, the Authority recommends imposition of definitive anti-dumping duty equal to the lesser of margin of dumping and margin of injury, so as to remove the injury to the domestic industry. Accordingly, the definitive anti-dumping duty as the difference between the reference price indicated in Col.9 of the table below and the landed value of the subject goods, in case the landed value at the time of importation is below the value indicated at Col.9, is recommended to be imposed on all imports of subject goods originating in or exported from subject countries, from the date of notification to be issued in this regard by the Central Government:

S. N o	Sub-heading	Description of goods	Specification	Country of Origin	Country of Export	Producer	Exporter	Amount	Unit of Measurement	Currency
1	2	3	4	5	6	7	8	9	10	11
1.	281511	Caustic soda	Caustic Soda Lye & Caustic Soda Solid/ Flakes	Thailand	Thailand	Any	Any	379	DMT	USD
2.	- do -	- do -	- do -	- do -	Any Country other than Thailand	Any	Any	379	DMT	USD
3.	- do -	- do -	- do -	Any country other than subject countries	Thailand	Any	Any	379	DMT	USD
4.	- do -	- do -	- do -	Taiwan (Chinese Taipei)	Taiwan (Chinese Taipei)	Any	Any	361	DMT	USD
5.	- do -	- do -	- do -	Taiwan (Chinese Taipei)	Any country other than Chinese Taipei	Any	Any	361	DMT	USD
6.	- do -	- do -	- do -	Any country other than subject countries	Taiwan (Chinese Taipei)	Any	Any	361	DMT	USD
7.. ,	- do -	- do -	- do -	Norway	Norway	Any	Any	379	DMT	USD
8.	- do -	- do -	- do -	Norway	Any country other than Norway	Any	Any	379	DMT	USD
9.	- do -	- do -	- do -	Any country other than subject countries	Norway	Any	Any	379	DMT	USD

For the purpose of this notification, “landed value” means the assessable value as determined under the Customs Act, 1962 (52 of 1962) and includes all duties of customs except duties levied under sections 3, 3A, 8B, 9 and 9A of the said Act.

J. Further Procedure:

An appeal against the orders of the Central Government that may arise out of this recommendation shall lie before the Customs, Excise and Service tax Appellate Tribunal in accordance with the relevant provisions of the Act.

(Vijaylaxmi Joshi)
Designated Authority

