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

NOTIFICATION

**NEW DELHI,
The 7th March 2008**

SUNSET REVIEW

FINAL FINDINGS

Sub: Sunset review of definitive Anti-Dumping duty on imports of Caustic Soda originating in or exported from Qatar.

A. INITIATION

F.NO. 15/3/2007--DGAD- Having regard to the Customs Tariff Act, 1975 as amended in 1995 (hereinafter also referred to as the ACT) and the Customs Tariff (Identification, Assessment and Collection of Antidumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (hereinafter also referred to as Rules),

2. WHEREAS the Designated Authority (hereinafter referred to as the Authority), vide notification dated 8th October 2000, initiated an antidumping investigation on the basis of an application received from the Alkali Manufacturers Association of India on behalf of the domestic industry in India alleging dumping of SodiumHydroxide Commonly known as Caustic Soda (hereinafter referred to as the subject goods) from Qatar. The Authority notified its preliminary findings on 18th January 2002 and acting on the recommendations of the Authority the Central Government imposed provisional antidumping duty vide notification No 32/2002-Customs date 27th March 2002. The Authority notified its final findings vide notification dated 7th October 2002 recommending imposition of definitive antidumping duty on the imports of the subject goods from Qatar. Definitive antidumping duty was imposed by the Central Govt. vide Notification No 121/2002-Customs dated 31st October 2002 and the duty was definitively collected with effect from 27th March 2002. In terms of Section 9A (5) of the Act the duty in force will expire on 26th March 2008.

3. AND WHEREAS On the basis of a duly substantiated request made by , M/s Alkali Manufacturers Association of India representing the domestic producers, commanding a major proportion of the domestic production of the subject goods, the Designated Authority initiated a sunset review of the Anti Dumping Duty in force on the imports of the subject goods from Qatar (hereinafter referred to as subject country), vide notification dated 9th March 2007, under Section 9 (A) 5 of the Acts, to

examine whether cessation of antidumping duty is likely to lead to continuation or recurrence of dumping and injury.

4. AND WHEREAS vide notification No. 43/2007-CUSTOMS dated 21.03.2007, the definitive duties were extended by the Central Govt. under Section 9A (5) for a further period of one year, i.e., till 26th march 2008.

B. PROCEDURE

5. The procedure described below has been followed with regard to this investigation:

- i) After initiation of the sunset review the Authority sent questionnaires, alongwith the initiation notification, to all known exporters/producers in the subject countries, and domestic industry in India in accordance with the Rule 6(4), to elicit relevant information;
- ii) The Embassy of the subject country in New Delhi was informed about the initiation of the investigation, in accordance with Rule 6(2), with a request to advise the exporters/producers in the subject country to respond to the questionnaire within the prescribed time.
- iii) Questionnaires were sent to known importers and consumers of subject goods in India calling for necessary information in accordance with Rule 6(4).
- iv) Investigation was carried out for the period starting from 01.01.2006 to 31.12.2006 (POI). However, injury examination was conducted for a period from 2003-04 to 2005-06 and POI.
- v) 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 investigations;
- vi) Questionnaire response has been received from M/s Qatar Vinyl Corporation, Qatar. No other exporter from the subject country has submitted any response, in any manner, to the initiation notification.
- vii) 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;
- viii) The Authority verified the information furnished by the domestic industry to the extent possible examine the injury suffered and to work out optimum cost of production and cost to make and sell the subject goods in India on the basis of Generally Accepted Accounting Principles (GAAP).
- ix) The information furnished by the cooperating exporter from the subject country were also verified so as to determine the degree and extent of dumping and likelihood of dumping in the event of withdrawal of duty.

- x) The Authority held a public hearing on 7th January 2008 to hear the interested parties orally, which was attended by representatives of the domestic industry, exporters of the subject goods from Qatar. The parties attending the public hearing were requested to file written submissions of views expressed orally. The written submissions received from interested parties have been considered by Designated Authority in this finding;
- xii) In accordance with Rule 16 of the Rules supra, the essential facts under consideration of the Authority and the basis of determination proposed to be adopted were disclosed to known interested parties as general disclosures and confidential disclosures vide disclosure statement dated 28th February 2008. The views of the interested parties, to the extent they are relevant and supported by evidence, have been considered by the Authority in these findings.
- xiii) The Authority has examined the confidentiality claims of various interested parties in respect of the data submitted by them. The information, which is by nature confidential or which has been provided on a confidential basis by the interested parties' alongwith non-confidential summary thereof, has been treated confidential. **** In the Notification represents information furnished by interested parties on confidential basis and so considered by the Authority under the Rules.

C. PRODUCT UNDER CONSIDERATION AND 'LIKE ARTICLE'

6. The product under consideration in the original investigation was Caustic Soda. Caustic Soda (Sodium Hydroxide), which is an inorganic Chemical, classified under Chapter 28 of the Customs Tariff Act. 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. It is mainly used in the manufacture of pulp & paper, newsprint, viscose yarn, staple fiber, aluminum, cotton, textiles, toilet & laundry soaps, detergents, dyestuffs, drugs & pharmaceuticals, vanaspati, petroleum refining etc. Caustic soda is produces 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 within the scope of the product. This being a sunset review of the product against which duty is already in force the review was initiated on the said product without any change in the product scope.

7. The domestic industry has argued that in view of significant difference in the prices of solid and liquid caustic soda, the Authority should do the comparisons separately for liquid and solid and recommend separate benchmark for liquid (lye) and solid (flakes).

8. The exporter has argued that no grade wise data has been provided by the Domestic Industry either in the petition or in communications thereafter to request for change in duties. This being a review proceeding and not a fresh proceeding, the domestic industry cannot request for change in the manner in which the duties are currently operative. It has also been argued that in the preceding sunset review

in the anti-dumping investigation concerning the same product against imports from Iran, USA, Saudi Arabia, France and Japan the Authority had clearly held that the liquid and soda are like articles and therefore, do not require separate duties to be imposed on each of them. It was held that the differences in caustic soda in two different forms do not render these a different product. The product continues to be essentially caustic soda, with the same product characteristics. Therefore, the requests of the petitioners should be rejected.

9. The Authority notes that the issue of like article as far as caustic soda lye and flakes are concerned has been well settled and they have been held as like articles. These are in fact two product types/forms of the same product. The difference in cost of flakes and lye is higher processing cost for drying lye to flakes, which is more or less neutralized by higher transportation cost of lye as it carries 50% water. The Authority also notes that the price of lye is on dry weight basis. Therefore, they cannot be treated as two separate products for the purpose of dumping determination. Product type-wise determination has to be weighted averaged for final product specific dumping margin determination as per the standard practice of the Authority. However, as far as imposition of duty on reference price is concerned, it is an issue of duty collection methodology and shall depend upon the nature of the case and product types involved. Accordingly, the Authority confirms the product under consideration as notified in the initiation notification.

D. Domestic Industry and standing

D.1 Views of interested parties

10. The responding exporter, in its submissions, has argued that while it has been claimed by the petitioners that all the producers of caustic soda in India are members of the Association who have preferred the continuation of anti-dumping duties, only a handful producers of the Association have petitioned and provided the costing and other necessary data to the Authority. Therefore, the petitioning industry should be put under strict proof to provide the data in this behalf. In its post disclosure submissions the exporter has reiterated its stand that 'the domestic industry as a whole' should have been before the Authority for their injury examination, in the absence of which the Authority should treat them as non-cooperative.

11. The domestic industry in its submissions has argued that the participating companies account for a major proportion of Indian production. It has been argued that all producers of Caustic Soda in India are members of the Association, and Executive Committee of the association has decided to file the present petition and a resolution to this effect has been provided to the Authority. The share of companies who have provided relevant information and have consented to provide further information is in excess of 25%, and the petition is supported by all the Indian Producers. Therefore, it should be held that the present petition has been made by or on behalf of "domestic industry". It has been further argued that the applicants expressly participating in the investigation constitute major proportion of the domestic industry and other Indian producers on an average command about 1.6% of Indian production. It has been argued that the Rules itself addresses the

situation where the domestic producers as a whole are not part of the domestic industry. In such situations, those domestic producers, whose collective output constitutes a major proportion, constitute “domestic industry”. Thus, it is well convinced in law that all domestic producers may not be before the Designated Authority and it is for this reason that the Rule provides for consideration of “a major proportion” as domestic industry.

D.2 Examination by the Authority

12. With regard to domestic industry, Rule 2(b) of the Anti dumping Rules states as under:

“domestic industry” means the domestic producers as a whole engaged in the manufacture of the like article and any activity connected therewith or those whose collective output of the said article constitutes a major proportion of the total domestic production of that article except when such producers are related to the exporters or importers of the alleged dumped article or are themselves importers thereof in which case such producers shall be deemed not to form part of domestic industry:

13. The application for the review has been filed by the Alkali Manufacturers Association of India (AMAI) representing the Chlor Alkali manufacturers in India. The Association representing all the known producers of subject goods has filed a resolution supporting the application. As per the AMAI Report published for the year 2006-2007 there are 33 caustic soda manufacturers in India who are also members of AMAI. Out of the above 8 major domestic producers of the subject goods, i.e., M/s Indian Petrochemicals Ltd, M/s Gujarat Alkalies and Chemicals Ltd. (Dahej and Baroda), DCW Ltd, Shriram Alkalies, M/s Bihar Caustic, M/s Grasim Industries, M/s Jajshree Chemicals and M/s SIEL, (9 units), commanding a major proportion (45%) of the total production of the subject goods in the domestic market, have filed their cost and injury data. Therefore, for the purpose of this investigation the above producers, commanding a major proportion of total domestic production, constitute the domestic industry within the meaning of the term as defined in Rule 2(b) of the Rules.

14. The Association was also asked to file the data in respect of all the producers of the subject goods in India in line with the Supreme Court Judgment in Reliance matter. However, the applicants have not filed the cost and injury information of all the producers of the subject goods. The Authority notes that average individual production shares of the remaining units is less than 2% of the total production and some of the units. Therefore, the cost and injury analysis has been carried out for the domestic producers which constitutes the major proportion of the domestic production. However, to the extent the data is available in the public domain, production and sales data of all domestic producers have been examined as recorded in the relevant section for overall injury examination in respect of the domestic producers.

E. Other Issues

E.1 Views of the Domestic Industry

15. The domestic industry, in its various submissions has argued inter alia that
- NALCO stated, without any evidence, that the Indian producers have been erratic in supplying material to them and that NALCO is forced to import because Indian producers cannot meet the demand. The tenders floated by NALCO for the last three years and orders placed on domestic industry would establish that the quantities offered by the Indian producers were higher than the quantities for which orders have been placed by NALCO. Thus, the fact is that NALCO is not buying material to the extent offered by the domestic industry.

E.2 Views of QVC

16. The responding exporter from Qatar, in its various submissions, has inter alia argued that

- The anti-dumping duties imposed on Caustic Soda have been in place now for over a period 5 years against 11 countries. With the Indian economy growing every year, there are a lot of opportunities for the Indian industry to deliver and compete not only in India but globally. In order to achieve the same, the consuming industry requires the subject goods to be available at fair prices with regular supplies. With anti-dumping duties imposed on 11 countries, the Domestic Industry has virtually played a monopolistic role by driving out the competition by commanding on the availability to offer the subject goods and compelling the domestic consumers to buy at peak prices compared to the international prevalent rates during that period of time.
- Domestic Industry has been successful in avoiding the exporters from supplying to one of the largest customers in India i.e. Nalco. The quantities for which orders have been placed by Nalco clearly show the dependency of the consumer to source the subject goods only from the domestic industry as a result of anti-dumping duties existing on 11 countries, including the subject country.
- The domestic industry has not been unable to satisfy the requirements of demand of the subject goods in India. It is also to be noted that the prices at which the domestic industry offers to supply to NALCO is much higher than the prices quoted in reputed journals.
- One of the interesting position to be considered is while the Domestic Industry almost holds more than 90% of the Domestic Demand in the country and with a view of increase demand, substantial investments for project capacities have been earmarked only proves that there is no alleged injury to the Domestic Industry

E.3 Examination by the Authority

17. The issues raised by the parties have been examined in the context of alleged injury to the domestic industry and consequence of antidumping duty on

import of the subject goods from several countries in the relevant sections in this finding.

F. Determination of Dumping

18. The domestic industry in its submissions has argued that proper interpretation and understanding of Article 11.3 of the ADA, Section 9A(5) of the Customs Tariff Act, 1975 mean that the main intent behind the legislation of sunset review investigation is to examine the following results of the anti dumping duty in force:

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

19. It is evident that either there would be “continued” dumping/injury, or in the absence of continued dumping/injury, likelihood of recurrence of dumping/injury thereof. Thus, Rules and the other provisions of sunset review clearly envisage a situation where the domestic industry would not have suffered continued injury after imposition of anti dumping duties.

20. The responding exporter has argued that the petitioning domestic industry has failed in its primary responsibility of providing credible evidence of normal value in Qatar and export price to India to establish current dumping and likelihood of dumping. It has been argued that as regards the evidence on normal value is concerned, the standards adopted by the domestic industry are clearly without the authority of law and the precedent in this behalf set by the WTO Panel decision in the dispute concerning Mexico – Anti-Dumping Duties on Steel Pipes and Tubes from Guatemala (Dispute No. WT/DS331/R), wherein the Panel clearly came to a finding that it is the duty of the domestic industry or the petitioning industry to provide the data pertaining to the prevailing home market price at the level of producers and/or exporters. Similarly, for the export price there should be one definitive data which should be relied upon by the Authority and the exporter has willfully cooperated with the Authority right from the initiation of the investigation and thus the figures and the data as made available in the exporters’ questionnaire should be given effect to in stead of relying upon the unsubstantiated claims of the petitioners.

21. The Authority notes that in a sunset review investigation the Authority is required to examine the current scenario of dumping and injury and causal links, as well as the likely scenario of dumping and injury in the event of withdrawal of the duty. Accordingly both the scenarios have been examined as follows:

F.1 Continuation of Dumping and Dumping Margin Determination

22. The domestic industry has argued that the exporter from Qatar has continued to exports to India at significantly dumped prices and the volume of dumped imports has increased during the POI. It has also been argued by the domestic industry that the exporter seems to be getting major item of utility from its affiliate. No information has been provided by the exporter to establish that the price at which this utility was purchased is based on market price. In fact, the cost of production claimed by the exporter is clearly suggestive that the exporter has claimed too low price for this utility. In this regards, the exporter has submitted that the gas sourced from the affiliate is in line with the gas provided to other buyers in the market, which is verifiable.

23. The exporter has further argued that worldwide, the caustic soda manufacturers' operationally and financially treats caustic soda and chlorine as co-products. It is matter of chemical law that the reaction to produce caustic soda necessarily produces chlorine and that the costing/pricing of caustic soda and chlorine are intimately linked and measured in the concept of an ECU. The issue of treating chlorine as a by-product or co-product has also been settled by the Hon'ble Tribunal in the judgment of Alkali Manufacturers Association of India versus Designated Authority wherein it was held that when cost of chlorine is substantial then it should not be taken as bye-product but it should be treated as a co-product as per para 12 of Annexure-III to Cost Accounting Records (Caustic Soda) Rules, 1967.

24. The Authority notes that M/s Qatar Vinyl Corporation has fully cooperated in the investigation and provided its cost and sales data and has argued that the goods have been sold at prevailing market prices and therefore, there is no dumping of the subject goods by them. The issues have been examined and dumping margin has been determined on the basis of the data submitted by the cooperating exporter.

a) Determination of Normal Value

25. M/s Qatar Vinyl Corporation (QVC) filed its questionnaire response and fully participated in the investigation. Information filed by this Company was also verified to the extent possible. On the basis of the verified information and on-spot investigation carried out normal value of the responding exporter has been determined as follows:

26. The responding company in its submissions has argued that their home market sales are not representative for determination of normal value and comparison with their export price to India, firstly because almost entire sales in the home market are to their affiliated buyers and secondly, because those sales are against long-term contracts with the affiliated buyers whereas the sales to India are against spot sales. The exporter suggested that their sales price to another spot sales market i.e. Singapore, which is more akin to the India market should be considered for determination of normal value for comparison with the export price to India on like to like basis. In its post disclosure submissions the exporter has

reiterated its position in respect of determination of normal value based on their third country export price to Singapore.

27. The Authority notes that QVC is a Qatari Shareholding Company with more than ***% of the shares held by Qatar Petroleum (QP) and Qatar Petrochemical Company (QAPCO). It reveals that QVC was established as a joint venture of the Qatar Petroleum Company, Qatar Petrochemical Company and other foreign JV partners to utilize the large non-associated gas reserve of Qatar and produce EDC/VCM using natural gas. For production of EDC ethylene and Chlorine are the major raw materials. Ethylene is produced by Qatar Petrochemicals (QP) from ethane (natural gas liquid) and supplied to QVC. QVC imports salt from India, Jordan and Australia and produce chlorine through membrane electrolysis process. In the process Caustic soda is also produced as a joint product. However, production volume of caustic depends upon the Chlorine demand for EDC/VCM production. The Company does not have any storage facility for Chlorine. Therefore, chlorine is produced to the extent of actual demand. As per the current capacities for chlorine, the Company has a capacity to produce about **** MT of caustic soda and the capacity is being fully utilized. QVC produces caustic soda in lye form only.

28. Production of chlorine and caustic is power intensive. The Company produces its own power (132 MW) using gas. Gas is purchased from its main promoter Company M/s Qatar Petroleum on the basis of 25 years gas supply agreement at a price linked to US inflation rate. Average price of gas during the POI was *** US\$ for MMBTU. The Company therefore, has significant cost advantage in terms of power cost due to comparative advantage arising out of availability of cheap gas at the door step.

29. The sales arrangements of the Company were examined. It was pointed out that QVC does not have its own sales network to sale its products (all products, including caustic soda) directly. As per its arrangements with its principal shareholders QVC has to use the sales network of these shareholding companies to sale its products in different markets. The role of these owners is to facilitate the sales using their network. ***% of total FOB sales revenue is set aside as commission to these parties which is shared by them as per a formula. Even on sales to the related parties this selling agency commission of ***% is paid as a general arrangement. This amount is paid to the head offices of the respective agents. Therefore, net selling price of all products and all sales has to be adjusted by ****% on FOB to arrive at the net realization of QVC.

30. The company produced **** MT of the subject goods during the POI and sold **** MT during the same period. The Company provided the entire sales records of the POI for verification. As per the records QVC sold only **** MT in the domestic market which constituted ***% of their total sales. During this period QVC exported only **** MT of the subject goods to India. Exports to other countries included sales to Australia which is the largest buyer of the subject goods from QVC followed by South Africa. Apart from the above countries small quantities have been exported to Singapore, Thailand, Malaysia and Kenya.

31. The cost of production of the company was also verified as per the arguments raised by the interested parties during the hearing. Salt is the major raw materials used in the production of Caustic Soda. Chlorine and Caustic Soda are treated as joint products. The company has its own power generation through Gas turbines and Gas is procured from related company i.e Qatar Petroleum for which they have long term Gas Supply Agreement as stated earlier. Power is also purchased from Ministry of Electricity and Power. However, the difference in the rates of own power generated and power purchased through Grid is only about ****%. The consumption of Power per MT of Caustic Soda Lye is **** Kwh.

32. The company procures Steam from QAPCO, its related company. During the Period of Investigation, QVC had procured **** tonnes of steam from QAPCO amounting to US\$ ****. On the basis of the verified cost records of the company the cost of production per MT of Caustic Soda Lye was found to be USD****per MT which is significantly low due to significant natural cost advantage enjoyed by the company in terms of power cost in Qatar.

33. As reported earlier during the POI, QVC sold only **** MT of caustic soda lye in its domestic market. It was clarified by the Company that QVC is the only caustic soda manufacturer in Qatar and this product has a very limited use in that country as Qatar does not have any downstream user industry for this product. Caustic is used mostly for scrubbing of sulfur contained in the natural gas which is called acid gas. Therefore, only the petroleum/gas companies or Companies using natural gas as feedstock and a detergent manufacturer in Qatar require this product in small quantities. Caustic is used by QP and other affiliates mainly to remove sulfur from the gas (called acid gas) and consumption depends upon the quality of gas (sulfur content) and there is no standing demand for caustic. Demand and consumption depends on the project in hand and quality of gas. Therefore, the demand of caustic in Qatar is very limited.

34. The exporter has claimed that major portion of their sales in the home market is to related parties and therefore, the domestic sales cannot be considered for determination of normal value. Therefore, the relationship between QVC and the domestic purchasers was examined. It was found that goods have been sold to 10 entities in Qatar out of which 6 parties are related to QVC due to significant shareholding, either in the Company itself, or through shareholding by the parent companies of QVC.

35. Out of total domestic sale of ****MT of caustic soda lye during the POI, the sales to these related parties was **** (95%) and balance quantity of **** MT was sold to 4 unrelated parties, in small retail quantities of average 10 MT per transaction. Out of affiliated party sales, Qatar Petroleum constituted 61% (**** MT) of the sales to related parties. The sale to unrelated parties was about 1.5% of the volume exports to India. The prices are also at retail level due to small volumes.

36. The nature of transaction to the related parties was also examined to find if the sales were actually affected by relationship and cannot be considered as in the ordinary course of trade. The Company produced the respective supply contracts with all their affiliated parties for examination of the issue. It was found that QVC

has separate long term contract agreements with all their affiliated entities for supply of caustic soda. The price mechanisms built into these contracts were also examined.

37. It was found that Qatar Petroleum, which buys bulk of the product from QVC for its NGL plant and Nodco plant have separate long term contracts with QVC. For Nodco plant, which is the main purchaser in Qatar and purchases the bulk of the products sold in the domestic market (***** MT), the basic agreement price is linked to the Average of All Suppliers Alumina Price (to Australian Alumina Customers) as reported in Harriman Chemsult for the previous semester for the deliveries made in the current semester. This has been revised to middle-east price since 2006. The contract also prescribes a premium of *****% on the basic price to consider smaller quantities as compared to Australian Alumina Customers. The contract has also a floor and cap price within which the prices can fluctuate based on caustic price to Alumina referred above. Wherever, the delivery is by tanker extra transportation cost is payable @US\$*****/DMT which includes handling charge. The Company produced the Harriman Chemsult reports of the POI and it was found that the Middle East contract price indicator for Q3 & Q4 of 2005 was US\$280 per DMT. Accordingly, the delivered price of QVC to QP in Q1 & Q2 of 2006 was US\$***** per DMT for pipe deliveries and US\$***** per DMT for tanker deliveries. Similarly for the Q1 & Q2 of 2006 Middle East contract price indicator as reported by Harriman Chemsult was US\$***** per DMT and accordingly, the invoice price of QVC to QP for period Q3 & Q4 of 2006 was US\$***** per DMT for pipeline supplies and US\$***** per DMT for tanker supplies. NGL plant purchased only ***** MT during the entire POI and had a fixed contract of US\$***** per DMT (delivered price). These transactions are also in retail quantities of less than 10 MT per transactions.

38. Contracts of QVC with other related parties were also examined. These contracts with the affiliated parties are on long term basis for small lot (retail) supplies and the prices are fixed prices. Since the supplies in small lots (retail level) the prices are with premium as in case of QP and the prices to these buyers also fall in the same range as in case of QP.

39. The exporter has claimed that the domestic selling prices are not in ordinary course of trade due to affiliation and small volume sales in the domestic market for which the domestic buyers pay a premium as reflected in the contract of PQ. It has been argued that these sales are under on long term contracts with affiliates and are at retail quantities which does not compare with the quantities sold in India in terms of terms of sales and transaction quantities. Therefore, the Authority should disregard the sales made in the domestic market and sales made to Singapore should be taken into consideration as "normal value sales" as the sales were spot market sales and also the markets are comparable to India in terms of the quantities as well as in terms of geographical location. However, if the Authority decides to consider the domestic sales for determination of normal value it may be noted that there is a clear condition in the contract with domestic buyers that 10% premium is paid by the buyer to QVC due to low volumes sales in the domestic market. Therefore, in terms of Article 2.4 of the WTO Anti-dumping Agreement (Annexure 1; Sub Rule 6(i) of the Indian Anti-dumping Rules) the Authority should reduce the

domestic selling price by 10% as an adjustment towards factors and the conditions of sales affecting price comparability.

40. In view of the above, the selling prices to other third countries were also examined. Australia constitutes the largest market of the product for this exporter and the goods have been supplied to large alumina plants under long term contract arrangements. The contracts of these Australian alumina producers with QVC were also examined and it was found that the contract prices and settlement prices in these contracts are also linked to Harimman Chemsult report and incorporates various price variation formulas with floor and cap pricing and discounts, depending upon the base price levels. The prices have remained low because of the volume of supplies per transactions, (volume discounts) and relevant caustic prices to alumina industry prevailing during that period.

41. The export to South Africa constitutes the second largest volume of exports of QVC. Therefore, their transactions and contracts were also examined. It was noticed that QVC has a long term contract with one major customer in South Africa for supply of caustic to two major paper manufacturers and one caustic manufacturer in South Africa. The price to these buyers is based on average price between US Gulf Spot Price for exports as quoted by ICIS-LOR for the week falling 21 days in advance of shipment and the then prevailing FOB price as applied to Australian Alumina Industry with a notional floor and cap on prices. It was explained by the Company that since the US Gulf supplies are also available to South Africa the prices to South Africa is linked to US Gulf price also which is higher than the Australian Alumina prices. Therefore, the market structure in this market is significantly different from the other markets of QVC. The Company produced the ICIS-LOR and Harimman Chemsult Reports of the relevant periods to prove this point and argued that this market price cannot be compared with Indian prices due to this very reason.

42. Export Price to Singapore and other Asian markets were also examined. It was noticed that the volume of exports for the entire Asia region, excluding India, was only **** MT during the POI indicating that this is not a significant market for this exporter. There is no long term contract with any of the buyers in this region for supply of caustic on long term contract basis. The supplies are on spot sales basis. The Company explained that the caustic of QVC is basically committed to bulk buyers, particularly Alumina producers in Australia and therefore, the material handling of the product has been designed to directly pump the product to the ship at their own jetty alongside the plant, without any significant storage capacity. Only when the arrival of the ship is delayed due to any reason and the plant cannot store the product the Company resorts to spot sales as it cannot store the product till the ship arrives for regular contracted shipment. Therefore, these spot sales can be resorted to a market where regular vessels turn around is high (Asia region) and such sales fetch low price compared to regular price.

43. The above examination shows that though major portion of domestic sales are to affiliated parties and against long terms contracts, the price mechanism is based on the caustic price to alumina during the period of supply based on Harriman Chemsult quarterly reports. Same is the case with its major buyers in

Australia and South Africa. Therefore, the domestic sales cannot be said to have been affected by the affiliation. However, the contracts do recognize the fact that the small volume sales in the domestic market fetches a premium of 10% on the base price reported in Harriman Chemsult and in other market where the supply is in bulk there is a discount.

44. The Authority notes that domestic industry in its arguments has submitted that prices of caustic soda in different parts of the world are published by Harriman Chemsult which is the world's leading consulting company specializing in market trends and pricing in the chlor-alkali, vinyl chloride, bleaching chemicals and related chemical industries. Harriman Chemsult is dedicated to provide independent market research services ranging from weekly price monitors to monthly market reports and periodic multi-client publications. It provides price reports on several products, including caustic soda and it has recognition and reliability about the authenticity, reliability and usefulness of the data and information published in it. It has been submitted by the domestic industry that the price reported by Chlor-Alkali is a good indicator of the prevailing prices of Caustic Soda in the domestic markets in various countries/regions and the Designated Authority has in the past determined normal value based on the prices reported by this journal.

45. Therefore, the Authority is of the view that the domestic selling prices of the responding exporter, which is based on Harriman Chemsult Price trends, can be adopted for determination of normal value with the adjustments towards small volume premium, as built into the contracts itself, as the conditions of sales adjustment.

46. Accordingly, exporter's domestic sales have been examined and its domestic selling expenses and other adjustments claimed by the exporter have also been verified from their records. It was noticed that the goods are sold in the domestic market on delivered basis either through pipelines or through tankers. Total expense on transportation of the goods was US\$**** and average transportation cost works out to US\$*** per DMT which has been adjusted from the domestic selling price. The sales are against TT payments with credit periods ranging from 30 to 45 days. The credit expenses on the domestic sales have been worked out taking into the dollar denominated interest as LIBOR +1% which has been computed as ***% on the invoice price.

47. In addition to the above direct selling expenses, the Company pays a commission of three (***)% to its principals for using their marketing networks as noted earlier. Therefore, the domestic selling prices are required to be adjusted for the above amount.

48. On the basis of the above the weighted average normal value of the subject goods for the responding exporter has been determined based on its domestic selling prices as follows:

Data							
Qty Sold (DMT)	Net Invoice Value (USD)	Credit Cost (USD)	Transport Cost (USD)	Commission 3% on FOB	Ex-works Value (USD)	Less Volume Premium as per	Net ex-works Price US\$/DMT

						contract	
*****	*****	*****	*****	*****	*****	*****	*****

b) Export Sales to India

49. During the POI QVC exported only ***** MT of the subject goods to India against ***** transactions. All export transactions and corresponding invoices were checked from the records of the Company. Corresponding shipping documents were also produced for verification and copies obtained for records. The export sales to India are not against any contract and the exports have been made on spot sales basis, CIF Indian ports. Payment has been realized in TT with credit periods ranging from 30 to 60 days.

50. Since the goods are directly pumped to the vessel at its own jetty alongside the plant there is no inland freight expense on exports. The ocean freight paid was checked from the debit notes of the shipping agents. The only other handling expense incurred by the Company is the inspection/surveyor charge paid by them to SGS @ Qr*****/- (US\$*****) per ship. Overseas Insurance cost, as per the insurance contract is 0.10% of the CIF value of the liquid bulk cargo.

51. Since the payment has been realized against TT, with credit period varying from 30 to 60 days, adjustment towards notional credit cost has been done taking the interest rate at LIBOR plus 1% which works out to ***% of the CIF value.

52. As noted earlier the principals of the Company are being paid a commission of ****% on FOB value of all sales, including sales to India for using their marketing network. Therefore, an adjustment towards the commission as above has been made on the FOB value of exports. Based on the above the net export price at ex-works level has been worked out as follows and the excel sheet is annexed herewith.

Qty. Sold (DMT)	Net Invoice Value (USD)	Commission shareholders 3% of FOB (USD)	Ocean Freight (USD)	Credit cost (USD)	Clearance and Handling charges (USD)	Overseas Insurance (USD)	Sum of Net Ex-works (USD)	Net EP USD/DMT
****	****	****	****	****	****	****	****	****

c) Dumping Margin

53. The weighted average normal value determined at the ex-works level has been compared with the weighted average ex-works export price of the above exporter to determine its current dumping margin, which works out as follows:

Net Export Price USD/DMT	Normal Value USD/DMT	Dumping Margin USD/DMT	Dumping Margin %
****	****	****	9%

F.2 Likelihood of Continuation of Dumping

F2.1 Views of Domestic Industry

54. The domestic industry has argued that in order to examine likelihood of continuation or recurrence of dumping, in a sunset review investigation, the Rules have not prescribed any specific methodology. Practices of the investigating authority world over are also not uniform. In India, the dumping margin is being recalculated for the updated period provided there are imports in the current investigation period. Should there be positive dumping margin in respect of exports made in the review period, it is likely that the dumping would continue with the revocation of anti dumping duties. However, should there be no exports in the current investigation period, the same does not imply no likelihood of recurrence of dumping. Other relevant factors are required to be examined in that case. For example, evidence of propensity for dumping can easily be determined by considering the evidence of dumping by the exporters in third country markets during the anti dumping duty in force.

55. It has been further argued that In a situation where there are continued exports, the Designated Authority must examine whether the same were at dumping prices. In case exports to India are not at dumping prices, it must be examined whether the exports to third countries are at dumping prices and whether it appears that the export prices are reasonable and reliable. In case exports to India are at dumping prices, it should be held that the exporter would continue to export the subject goods at dumping prices in case of revocation of anti dumping duties. In the present case, Qatar continued to export the material at dumping prices even after imposition of the dumping duty. In a situation where it is found that there are no exports of the subject goods from the country concerned in the relevant period, the Designated Authority is required to examine whether the cessation of the anti dumping duty in force would result in recurrence of dumping in the Indian Domestic market. In the instant case, Qatar producer has continued dumping the subject goods in the Indian market, and therefore the situation of recurrence of dumping is not required to be examined in the present case. Keeping in mind the procedure followed by the Hon'ble Designated Authority in similar situations in sunset review investigations, the Authority should consider the dumping margins in previous investigations and current investigation, freely disposable present and potential capacities, considering known expansions undertaken by the foreign producers, prices prevailing in India, actual and potential volume of exports, export price from these countries to other countries.

56. It has been further argued that as per CMAI reports, capacity and production levels of Qatar producer and current demand supply position in Qatar shows huge surplus. Therefore, it is evident that the exporter would prefer to sell wherever it gets best possible prices. As per information published by Chlor-Alkali, the Qatar producer has exported significant volumes to a number of countries, which includes Singapore, South Africa, Australia, Thailand, Malaysia. There is significant price difference, inter-se countries, and there is no correlation between the export price and associated volumes. The dumping margins to these countries are higher than

dumping margin in case of India, which further establishes likelihood of continuation or intensification of dumping in the event of revocation of anti dumping duties. Should the present anti dumping duties be revoked, the exporter would be constrained to sell at prevailing prices, in line with other international suppliers. Considering the import price from other countries to India, it is evident that the exporter would have to reduce the prices in order to sell the product in the Indian market. Thus, the exporter would be forced to export at dumping prices.

57. It has also been argued that exports from Qatar to other countries are at significantly dumped prices. Comparison of export price from Qatar to third countries and prices of the domestic industry shows that prices prevailing in Indian market are significantly higher than the price at which material is being exported to India. Various price options with the producer would decide his sale options. Thus, the Qatar producer would like to sell more in Indian market, given higher prices in the Indian market and competition which they are facing in its major markets such as Australia, South Africa, Singapore, Thailand, Malaysia. It is relevant to note that the Designated Authority has earlier found that major exports of Taiwanese producer were to Australia. Qatar producer competes with these global suppliers in major importing markets. Under the situation, higher Indian prices are naturally lucrative to the foreign producers. Qatar Vinyl (QVC) being a producer of EDC and PVC for which chlorine is the main raw material and Caustic plant has been setup by QVC for meeting Chlorine requirement in its EDC plant. Therefore, realizations in Caustic Soda is not a concern for the company and such producers have no option but to sell the product at whatever price they are able to get in the market. The price at which the Qatar producer has exported Caustic Soda to other countries is suggestive of the prices at which these producers are willing to supply the material.

58. The domestic Industry further argues that low market share of Qatar Vinyl over the injury period must be seen along with (a) market share and the prices from other countries and (b) prices from Qatar to India and country-wise export prices from Qatar Vinyl to other countries. Given significant price difference of more than US\$100 in prices to various countries and further given the prices at which other countries have been exporting to India, it is evident that Qatar Vinyl will be in a position to export the material to the Indian market even at much lower prices than the prices it was sold in the investigation period.

59. In its post disclosure submissions the domestic industry has further argued that world-wide surplus capacity of the product stands at about 7.543 Million MT. Therefore, there is likelihood of exports from Qatar to Indian market. However, no evidence has been provided by the domestic industry to substantiate this claim.

60. The domestic industry further argues that since the prices followed by the company in respect of its domestic sales, exports to India and exports to various countries are governed by the prevailing prices, as published in Chlor-Alkali or ICIS-LOR, the exporter does not have its own pricing policy. It follows the market price. Therefore, whenever the export prices of caustic soda in the global market declines because of any reason, the exporter would not be able to sell the material without resorting to dumping. Considering production of downstream products by the Qatar producer and requirement of Chlorine therein the company would be constrained to

produce regardless of attractiveness of caustic soda market. It has also been argued that proximity of Indian market to the producer, with low turn around period, and demand in this market would enable the exporter to discharge its surplus production in Indian market at low prices, when the demand in its main markets declines, for any reason.

F.2.2 Views of the Exporter

61. The exporter has argued that exports made by Qatar during the period of investigation only shows that such exports were made to India at un-dumped which do not injure the Domestic Industry. The calculation using the potential volumes of dumped imports is clearly untenable and without the authority of law. The volume of imports from Qatar is a miniscule 0.80% as regards market share in demand including captive duty is concerned. The domestic industry has been using inconsistent and selective data sources and information in respect of its claim for likelihood of dumping and injury. While for claim of continued dumping the domestic industry did not rely on Harriman Chemsult data or Chlor Alkali data they have picked up some data on likely demand in Qatar to prove likelihood of dumping from Qatar.

62. The exporter in its post disclosure submissions has further argued that the Authority should consider the sales made to Singapore and other identical markets as India to arrive at the factual situation. It is also important to consider the reports of Harriman Chemsult and other reputed journals to come to a conclusion based on detailed observation and analysis taking into consideration the economic, factual view whether there is any reasonable case for the Exporter to continue dumping given that there is no material available to export, before coming to a conclusion that there is any likelihood of continuation of dumping.

F.2.3 Examination by the Authority

63. The Authority notes that QVC is the only caustic manufacturer in Qatar and it has been established in the previous section that dumping continues from the subject country in spite of antidumping duty on the subject goods. Therefore, the issue of likelihood of continuation of dumping of the subject goods from Qatar and QVC has been examined.

64. The Company has submitted that QVC is the only producer of the subject goods in Qatar and India is not its market for this product as it has already committed its products on long term contract basis to large alumina producers in Australia and smaller quantities to paper manufacturers in South Africa. Therefore, it does not have any surplus material to offer to customers in India. As explained earlier Qatar has a very limited demand of the product and maximum projected demand of the product in Qatar till 2010 is ****MT and the prices are linked to long term contracts which are in turn linked to price of caustic by all suppliers to Alumina production. As far as the export volume and prices to other countries are concerned, the Australian Aluminum producers are the major buyers of caustic and all of them have long term contracts with QVC till 2009 for committed quantities. Out of total production and sales of the company ***% of the production is linked to Long

term contracts, ***% committed to domestic sales (to own companies). Therefore, only ***% (Approx **** MT) are available for spot sales.

65. As recorded earlier the supplies are mostly committed to Australian Alumina producers under contract and spot sale is resorted to only some quantity is left for example if the vessel from Australia is delayed and QVC does not have storage capacity. This **** MTs available for spot sales caters to entire Asia region. It was clarified by the Company the Company does not carry significant inventory due to constraint of storage facility which is limited. It was clarified by the company that QVC does not have any plan for capacity increase for caustic which is linked to its EDC/VCM capacities. As per the forecast of the Company the caustic production would marginally increase to **** MT in 2010 and the Australian sales is likely to decline marginally which will be more than compensated by growing demand from South Africa. The sales in Asian region, including India would marginally decline to about **** MT. However, the examination of demand supply position of the company's products and available markets for the company it cannot be completely ruled out that the material is not available for spot sales to India. Since the prices to India and Asia region does not follow any particular price trend there is a strong likelihood that the prices would continue to be at dumped price level. Therefore, the Authority is of the view given the market conditions for the responding producer in Qatar though major portion of its shares are committed to long term contract buyers in Australia and South Africa, depending on the demand supply in those markets some quantities would enter Indian markets on spot sale basis and those sales would at dumped prices.

G. Continuation or Recurrence of Injury

G.1.1 Views of Domestic Industry

66. The domestic industry has argued that while performance of the domestic industry improved during the current injury period, it deteriorated between the year 2005-06 and the investigation period. It has been argued that the following parameters show that injury to the domestic industry is likely from imports in case the present anti dumping duties are revoked.

- Performance of the domestic industry improved continually between 2003-04 and 2005-06. Performance, more particularly with regard to price parameters, started showing deterioration in the current investigation period, with imports increasing significantly.
- Whereas the market share of the Indian Producers remained almost the same between 2003-04 and 2005-06, the market share of domestic industry and Indian Producers declined and that of imports from various sources, including subject countries, increased in the current investigation period. The increase in market share of imports is in spite of increase in capacity and is a direct consequence of increase in imports during the current investigation period. This clearly establishes vulnerability of the domestic industry.
- Performance of the domestic industry in terms of various price parameters, such as profits, return on investments and cash flow improved upto 2005-06 and

thereafter started deteriorating in current investigation period, when imports from Qatar and Other Countries have shown significant increase.

- All past investigations have shown that market for caustic soda is highly price sensitive and the imports are being made in view of the fact that the landed prices of imports have been lower than selling price of the domestic industry. So price sensitive the market is that a difference of Rs. 500 pmt can lead to loss of order.

67. It has been further argued that imports from Qatar, which were negligible in the base year, have once again started increasing in spite of Anti Dumping Duty in force. Indian Producers submit that there is likelihood of significant increase in imports in case present duties are revoked, as producer from Qatar is having significant excess capacity and regularly exporting material to India as also other countries. Likely volume of imports can be as high as 275000 MT, given that the Qatar producer does not appear to have any dedicated capacities for any third country markets. The subject goods are continuing to enter the Indian market from subject country at dumping prices at prices below the selling price and non injurious price of the domestic industry.

68. The domestic industry argues that in view of the above, it is evident that performance of the domestic industry remains fragile and injury is likely to recur in the event of revocation of anti dumping duties. The fact that imports from Qatar are below 1% does not imply that the same is insufficient to establish the likelihood of dumping and injury to the domestic industry. Considering significant variations in the price at which Qatar Vinyl has exported the product to various countries, it is evident that the potential volume of imports from Qatar Vinyl can be significant. The fact that volume of imports from other countries to India has remained significant implies that Qatar Vinyl cannot export to Indian market without selling the product at a price comparable to the price at which other countries are exporting. Thus, the price at which Qatar Vinyl is potentially likely to export should be the price at which goods are being imported from other countries. At these prices, it is evident that the domestic industry will suffer huge injury.

69. It has been further argued that the fact that prices from Qatar was higher than prices from other countries had its own impact in terms of the import volumes, which were higher from other countries. It should, however, be noted that about 74,000 MT was imported from China at a price quite close to the price from Qatar. Further, the price at which Qatar Vinyl has exported to other countries are much lower than the price at which material has been imported in India. The price at which Qatar Vinyl has exported goods to India over the past four years needs to be seen alongwith associated volumes and volume and price of exports from Qatar to other countries. Significant variations of more than US\$ 100 in price to various countries by Qatar Vinyl at similar point of time in fact establishes that the exporter does not believe in level playing or fair trade and instead is concerned over selling the material at the given price.

70. The domestic industry has further argued that there is no basis in the argument that world over the Caustic Soda manufacturers operationally and financially consider Caustic Soda and Chlorine as joint product for the purpose of

determination of cost of production. In fact, the investigation conducted against Taiwan showed that the Taiwanese producer was considering Chlorine as a by-product for the purpose of computation of cost of production of Caustic Soda. Merely because the two were co-produced, the same does not imply that the cost must be apportioned between the two products. Indeed, if the entire chlorine produced is sold in the market, the price which such chlorine will fetch from the market is the true market value of chlorine which should be considered for the purpose of valuing the chlorine produced. A number of companies are having significant captive consumption of chlorine and the price of chlorine in the market would be materially lower if the entire volume were to be sold in the market. Therefore, the credit for by-product recovery has to be granted considering the price at which the industry would have been able to sell chlorine in the market, had it not been captively consuming.

G.1.2 Views of Exporter

71. The responding exporter from Qatar, in its submissions has argued that the exports made by Qatar during the period of investigation only shows that such exports were made to India do not injure the Domestic Industry. In fact, on the contrary the exports made by the exporter only proves the point that there is no injury to the domestic industry considering the prices at which it has exported the subject goods during the period of investigation; and there is no likelihood of any threat from the Exporter. It has argued that in the facts of the present case, it is to be noted that the volume of imports from Qatar are a miniscule 0.80% as regards market share in demand including captive consumption is concerned. In contrast the market share of the domestic industry is 93.27% and the share of the other countries is approximately 5.91%. The highest increase of volumes from China is eating into the market share of the Domestic Industry and the threat of injury to the Domestic Industry, if any, is due to this growing imports. The imports from Qatar are miniscule and nominal as compared to the imports from China PR. In spite of the voluminous imports from other countries, the profitability of the Domestic Industry has remained unaffected, which shows that the industry is healthy and needs no support. Therefore, the argument of voluminous imports is highly exaggerative and misleading for continuation of the duties. It has been further argued that the prices at which the goods are being exported to India, is clearly not injuring the domestic industry. It can be clearly seen that the imports from Qatar entering at the price does not have significant impact on the domestic industry and neither it is going to increase the demand for the further imports. Thus, on the basis of two important grounds i.e. volume and price, there is clearly no case for the Petitioners' request of continuation of duties.

72. It has been further argued that the landed price of goods from Qatar are entering India at Rs. 15707 per MT as per the data provided by IBIS and at the same time, the imports from other dumping countries, the landed prices of the subject goods are at Rs. 11512 per MT, which is clearly a difference of around 25%. Even the volumes from these countries are significantly high compared to imports from Qatar. Thus the injury to the domestic industry, if any, is not from the miniscule

exports of subject goods from Qatar but from other countries. The exporter further argues that domestic industry has been using inconsistent and selective data sources and information in respect of its claim for likelihood of dumping and injury while for dumping margin determination they have not relied upon the same set of data sources.

73. In its post disclosure submissions the exporter has reiterated its stand that a number of important parameters the other Indian producers shows no sign of injury and in fact has excelled as compared to the Petitioners and the injury examination does not cover the domestic industry as a whole.

G.1.3 Examination of current Injury

74. The Authority has taken note of various arguments raised by domestic industry in their submissions and issue of continuation of injury to the domestic industry has been examined in the light of these arguments made before the Authority.

75. Article 3.1 of the ADA and 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 authorities are required to examine whether there has been a significant increase in imports, either in absolute term or relative to production or consumption in the importing member. With regard to the price effect of the dumped imports, the authorities are required to examine whether there has been significant price undercutting by the dumped imports as compared to the price of the like product in the importing country, or whether the effect of such imports is otherwise to depress prices to a significant degree, or prevent price increase, which would have otherwise occurred to a significant degree.

76. For the purpose of injury analysis the Authority has examined the volume and price effects of dumped imports of the subject goods on the domestic industry and its effect on the prices and profitability to examine the existence of injury and causal links between the dumping and injury, if any.

77. Since positive dumping margin has been established for the exports from Qatar, entire exports from those countries has been treated as dumped imports for the purpose of injury analysis and causal link examination.

(A) VOLUME EFFECT: Volume Effect of dumped imports and Impact on domestic Industry

78. The effects of the volume of dumped imports from the subject country as well as imports from other countries have been examined as follows:

i) Import Volumes and share of subject countries:

79. The Authority notes that antidumping duty is in force on import of the subject goods from several countries, including Qatar. Therefore, volume of imports from all countries has been examined with reference to the transaction-wise data reported by DGCI&S for the relevant periods. The export volumes reported by the cooperating exporter from the subject country and other countries in parallel investigation have been taken into consideration to analyse the import volume during the injury investigation period. As per the above information the volume of import of the subject goods from the subject country and other countries work out as follows:

Quantity in MT				
Import Volume	2003-04	2004-05	2005-06	POI
QATAR	0.00	6352.00	4794.00	19527.00
Trend		100.00	75.47	307.41
Total import from countries with duty	51148.07	31125.04	50497.86	119965.34
Trend	100.00	60.85	98.73	234.55
Other countries without ADD	7061.87	25359.01	1896.84	4642.00
Trend	100.00	359.10	26.86	65.73
Total Import	58209.94	62836.05	57188.70	144134.34
Trend	100.00	107.95	98.25	247.61
Import from all dumped sources	51148.07	37477.04	55291.86	139492.34
Trend	100.00	73.27	108.10	272.72

80. The above data shows that after imposition of antidumping duty, export of the subject goods from the subject country declined significantly in the base year and thereafter it has gradually increased. However, imports from other countries attracting antidumping duty has also increased significantly during the POI compared to other years during the injury investigation period, while imports from sources not attracting duty has declined significantly.

81. Share of imports from all sources have also been examined. The data below shows that share of imports from Qatar and all sources attracting antidumping duty has increased significantly. However, import from china, Korea and Qatar constitute 93% of total imports from countries attracting duty, China accounting for almost two third of these imports.

Qty in MTs	2003-04	2004-05	2005-06	Jan 06 to Dec 06
Qatar	0.01%	5.10%	3.91%	10.90%
Other Countries attracting Duty	87.86%	52.29%	92.61%	85.78%
Imports from dumped sources	87.87%	57.39%	96.52%	96.68%
Other countries not attracting duty	12.13%	42.60%	3.48%	3.32%
Total	100.00%	100.00%	100.00%	100.00%

ii) Demand, Output and Market shares

a) Capacity & Production of the Domestic Industry

Quantity in MT				
Capacity & capacity utilization	2003-04	2004-05	2005-06	Jan 06 -Dec 06
Capacity of DI	855848	888673	959925	992925
Trend	100	104	112	116
Production of DI	849114	883691	903742	890282
Trend	100	104	106	105
Capacity Utilization	99%	99%	94%	90%
Trend	100	100	95	90
Capacity of other producers	1435647	1402822	1615270	1582270
Trend	100	98	113	110
Production of other domestic producers	861178	928708	1032427	1108736
Trend	100	108	120	129
Total domestic Capacity	2291495	2291495	2575195	2575195
Total domestic production	1710292	1812399	1936169	1999018
Trend	100	106	113	117

82. Capacity and production data of the domestic industry reveals that the domestic industry has marginally increased its capacity by about 16% compared to the base year. However, the production of the domestic industry has increased by about 5%. Therefore, the capacity utilization of the participating domestic industry has declined compared to the base year.

b) Sales of Domestic Industry

Quantity in MT				
Sales	2003-04	2004-05	2005-06	Jan 06 -Dec 06
Domestic Sales of DI	732335	764822	774083	754108
Trend	100	104	106	103
Export Sales of DI	21925	12835	26213	29922
Trend	100	59	120	136
Total Sales of DI	754261	777657	800296	784030
Trend	100	103	106	104
Captive Consumption of DI	98577	108561	98992	101135
Trend	100	110	100	103
Sales of other domestic producers	1067158	1035741	1272052	1275739
Trend	100	97	119	120
Total Domestic sales including captive	1898071	1909124	2145126	2130983
Trend	100	101	113	112

83. The data above shows that the sales volume of the domestic industry, in the domestic market has increased by about only 3% compared to the base year after increasing upto the previous year by 6%. However, total sale of all domestic producers has increased by about 12%. Sale of other domestic producers has increased significantly at a higher rate compared to the applicant domestic industry. Export sales of the domestic industry also show increase though the volume remains low.

c) Demand and Market Share

	Quantity in MT			
Demand	2003-04	2004-05	2005-06	Jan 06 -Dec 06
Total Domestic Sales	732335	764822	774083	754108
Trend	100	104	106	103
Total Import	58210	62836	57189	144134
Trend	100	108	98	248
Captive Consumption	98577	108561	98992	101135
Trend	100	110	100	103
Sales of other domestic producers	1067158	1035741	1272052	1275739
Trend	100	97	119	120
Demand with captive Consumption	1956281	1971960	2202315	2275117
Trend	100	101	113	116

84. The above data shows that while the domestic demand has increased by about 16% over the base year, the sale of domestic industry has increased only by 3%. However, the sale of other domestic producer has increased by about 20% over the base year.

85. Analysis of the market share shows that the share of the domestic industry in total demand has declined by about 4%, while the share of dumped imports in demand has increased by about 5% though the subject country accounts for less than 1% of total demand. However, market share of other domestic producers has marginally increased. Sales of all domestic producers accounts for about 94% of total demand.

Share in Demand	2003-04	2004-05	2005-06	Jan 06 -Dec 06
Domestic Industry	37.4%	38.8%	35.1%	33.1%
Other domestic producers	54.6%	52.5%	57.8%	56.1%
Captive Consumption	5.0%	5.5%	4.5%	4.4%
Total domestic Producers	97.0%	96.8%	97.4%	93.7%
Subject country	0.0%	0.3%	0.2%	0.9%
Other Dumped Sources	2.6%	1.9%	2.5%	6.1%
Others	0.4%	1.3%	0.1%	0.2%

(B) Price Effect of the Dumped imports on the Domestic Industry

86. 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 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.

87. The impact on the prices of the domestic industry on account of the dumped imports from China has been examined with reference to the price undercutting, price underselling, price suppression and price depression, if any.

88. For the purpose of this analysis the weighted average cost of production, weighted average Net Sales Realization (NSR) and the Non-injurious Price (NIP) of the Domestic industry, worked out based on the verified costing information of the Domestic Industry, have been compared with the landed cost of imports from the subject country.

(i) Price undercutting and underselling effects

Particulars	Unit	2003-04	2004-05	2005-06	Jan 06 -Dec 06
Cost of Sales	Rs./MT	****	****	****	****
Trend	Indexed	100	96	89	97
Selling Price	Rs./MT	****	****	****	****
Trend	Indexed	100	113	135	140
Landed Value Qatar	Rs./MT		****	****	****
Trend			100	110	117
Price undercutting	Rs./MT		****	****	****
Trend			100	415	315
% Price undercutting	%		0-5%	10-15%	5-10%
Non Injurious Price	Rs./MT				****
Price underselling	Rs./MT				****
Price underselling %	%				20-25%
Landed Value other Dumped sources	Rs./MT	****	****	****	****
Price Under cutting other dumped sources	Rs./MT	****	****	****	****
Price under cutting %	%	30-35%	45-50%	5-10%	5-10%
Price underselling other sources	Rs./MT				****
Price underselling %	%				20-25%

89. Above data shows that the cost of sales of the domestic industry shows marginal decline whereas the selling price realization has increased significantly by about 40% compared to the base year. Landed value from the subject country as well as other sources also shows significant increase.

90. Price undercutting has been determined by comparing the weighted average landed value of dumped imports from Qatar over the entire period of investigation

with the weighted average net sales realization of the domestic industry for the same period. For this purpose landed value of imports has been calculated by adding 1% handling charge and applicable basic customs duty to the CIF value as reported in DGCIS data. In determining the net sales realization of the domestic industry, the rebates, discounts and commissions offered by the domestic industry and the central excise duty paid have been rebated.

91. For the purpose of price underselling determination the weighted average landed price of imports from Qatar has been compared with the Non-injurious selling price of the domestic industry determined for the POI and cost of production for the remaining years.

92. Above data shows that price undercutting and price underselling from Qatar and other countries attracting antidumping duty are found to be substantial. However, the Authority also notes that the increase in undercutting is due to significant increase in selling price of the domestic industry during the injury period while there is increase in cost of production.

(ii) Price suppression and depression effects of the dumped imports:

93. The price suppression effect of the dumped imports has also been examined with reference to the cost of production, net sales realization and the landed values from the subject country. The cost of production has marginally declined in the POI whereas the sales realization has increased by about 40% over the base year indicating that the dumped imports from the subject country and other sources do not have any price suppression or depression effect on the domestic industry.

(C) Examination of other Injury Parameters

94. After having examined the effect of dumped imports on the volumes and prices of the domestic industry and major injury indicators like volume and value of imports, capacity, output, capacity utilization and sales of the domestic industry as well as demand pattern with market shares of various segments in the earlier section, other economic parameters, which could indicate existence of injury to the domestic industry, have been examined as follows:

i) Productivity

		Qty in MT			
Particulars		2003-04	2004-05	2005-06	Jan 06 -Dec 06
Total Production of DI		849114	883691	903742	890282
Trend		100	104	106	105
Employment		3887	3841	3775	3894
Trend		100.00	98.82	97.12	100.18
Productivity	Per	218	230	239	229
	employee				
Trend		100	105	110	105

95. Productivity of the domestic industry has been measured in terms of its labor productivity of the output and it has been noticed that the productivity has marginally improved because of marginal increase in production while the employment level remains at the base year's level.

ii) Profits and actual and potential effects on the cash flow

96. Total revenue and profit of the domestic industry from its domestic operations has improved due to increase in domestic selling prices during the injury investigation period.

Profits	Unit	2003-04	2004-05	2005-06	Jan 06 -Dec 06
Cost of Sales	Rs./MT	****	****	****	****
Trend		100	96	89	97
Selling Price	Rs./MT	****	****	****	****
Trend		100	113	135	140
Profit/Loss	Rs./MT	(****)	****	****	****
Trend		(100)	15	201	175
Total Profit/Loss on Domestic Sales	Rs. Lacs	(****)	****	****	****
Trend		(100)	15	213	180

iii) Employment and wages

97. While employment level of the domestic industry remains almost same the wage expenses has increased by almost 50% compared to the base year.

Particulars	Unit	2003-04	2004-05	2005-06	Jan 06 -Dec 06
Employment	No	****	****	****	****
Trend	Index	100	99	97	100
Wages	Rs lacs	****	****	****	****
Trend	Index	100	103	123	149

iv) Return on investment and ability to raise capital

Particulars	Unit	2003-04	2004-05	2005-06	Jan 06 - Dec 06
Total Profit/Loss on Domestic Sales	Rs. Lacs	(****)	****	****	****
Trend	Index	(100)	15	213	180
PBIT	Rs lacs	(****)	****	****	****
Trend	Index	(100)	74	400	349
Capital Employed (NFA)	Rs lacs	****	****	****	****
Trend	Index	100	99	107	105

ROI (NFA basis)	Rs lacs	(****)%	****%	****%	****%
Trend	Index	(100)	76	374	332

98. The data shows that profitability and the return on capital employed by the domestic industry has significantly improved after imposition of the antidumping duty on the subject goods imported from several countries.

v) Cash flow

Particulars	Unit	2003-04	2004-05	2005-06	Jan 06 - Dec 06
Cash profit	Rs lacs	(****)	****	****	****
Trend	Index	(100)	209	744	682

99. Examination of cash flow position of the domestic industry indicates that the condition of the domestic industry has improved after imposition of the antidumping duty.

vi) Investment

Particulars	Unit	2003-04	2004-05	2005-06	Jan 06 -Dec 06
Investments made during the year	Rs in Lacs		****	****	****
Trend			100	454	727

100. The domestic industry has made significant investments for improving capacity and productivity during the injury investigation period.

vii) Magnitude of Dumping

101. Magnitude of dumping as an indicator of the extent to which the dumped imports can injure the domestic industry shows that the dumping margin determined against the subject country, for the POI, is substantial.

viii) Factors affecting prices

102. The Authority notes that domestic selling prices have shown significant improvement during the POI due to imposition of antidumping duty on several countries including the subject country. Therefore, the Authority did not find any negative factor that could have affected the prices of the domestic industry.

ix) Inventories

Particulars	Unit	2003-04	2004-05	2005-06	Jan 06 -Dec 06
Average Stock	MT	22190	14590	11572	18531
Trend	Index	100	66	52	84

103. The data indicates that inventory position of the domestic industry has improved during the injury investigation period.

G.3 Determination of Non-injurious Price of the Domestic Industry and Injury margin

104. Non-injurious Price of the subject goods in India has been worked out by the Authority after a detailed analysis and scrutiny of the cost of production and other information provided by the domestic industry. The exporter, in its post disclosure submissions has argued that the treatment of chlorine in determination of NIP has not been disclosed and various cost data of the domestic industry should have been disclosed in indexed form.

105. The Authority notes that the methodology of determination of the non-injurious price was communicated to all interested parties on non-confidential basis. Further disclosure of costing information on indexed form is not possible as it is confidential by nature. As regards the treatment of chlorine is concerned, the Authority notes that all applicant domestic producers, except IPCL, consistently treat Chlorine as a bye-product as chlorine is not of equal economic importance to them. Therefore, NIP has been determined taking into account the treatment given by the producers to this product as per their cost accounting records. The Authority notes that the import from Qatar is in lye form only. Therefore, for the purpose of fair comparison of import price with the domestic price, for injury margin determination on like to like basis, caustic soda lye only has been considered. Accordingly, the Non-injurious price of caustic soda lye has been determined by the Authority as Rs. *****/- per MT.

106. The above non-injurious price determined by the Authority has been compared with the landed value of the exports as per the verified data of the cooperating exporter. The weighted average landed price of the exports from the subject countries and the injury margins have been worked out as follows:

Injury Margins	NIP	M/s QVC
	Rs/MT	US\$/MT
NIP (Caustic soda lye)	****	****
Landed Value (caustic soda lye)		****
Injury Margin		****
Injury Margin % of Landed Value		20-25%

G.4 Overall assessment of Current Injury

107. Examination of the above injury parameters shows that the condition of the domestic industry has improved in several physical and financial parameters, such as total output, sales, sales realizations, cash flow, profitability, and return on investment. There is a marginal fall in capacity utilization and market share of the domestic industry. Fall in capacity utilization is due to addition of capacity by the applicant domestic industry and other domestic producers during this period. Production and sale of other domestic producers has also increased and the

increase is more or less in tandem with the growth of domestic demand. Only negative factor is the decline in the market share of the domestic industry as well as other domestic producers. However, the market share has been mostly cornered by the imports from China and Korea which account for the major proportion of the imports during this period.

108. The Authority also notes that though the dumped imports from the subject country and other countries have significant price undercutting and underselling effect when the NIP, determined taking into account the guidelines of the Supreme Court Judgment, is compared with the net sales realization of the domestic industry, it does not seem to have any significant impact on the domestic prices, which shows significant improvement.

109. The above examination shows that after imposition of antidumping duty on the subject goods imported from Qatar and other countries, the condition of the domestic industry has improved significantly and it does not suffer any material injury at the moment and the dumped imports from the subject country does not have significant impact on the performance of the domestic industry. Marginal decline in certain parameters from 2005-06 to the POI, as argued by the domestic industry, does not appear to be significant enough to indicate material injury to the domestic industry.

110. The domestic industry in its post disclosure submissions has argued that it was not the argument of even the domestic industry that it has suffered material injury. But it needs to be seen that while performance of the domestic industry improved during the current injury period, it deteriorated between the year 2005-06 and the investigation period and the condition of the domestic industry continues to be fragile. Such being the case, the domestic industry is likely to suffer injury in case of any further reduction in the prices or increase in the import volumes. It has been argued that under similar situations it has been held in other jurisdictions that the performance of the domestic industry is considered as fragile instead of holding that the domestic industry has not suffered material injury. In fact, the Designated Authority has taken the same view in the matter of imports of caustic soda from Taiwan. The Authority notes that the condition of the domestic industry is in the recovery path during the injury investigation period due to the antidumping duty protection available. However, the industry remains vulnerable to high price fluctuations and large volume imports.

H LIKELIHOOD OF RECURRENCE OF INJURY

111. Section 9A (5) of the Act requires the Designated Authority, in an expiry review, to examine whether cessation of the duty would lead to continuation or recurrence of dumping and injury. The Authority, in the previous section concluded that the dumped imports continue to enter the domestic market at dumped prices and dumping is likely to continue due to the factors examined in that section. The injury investigation as above indicates that the domestic industry does not suffer material injury at the current level of imports from the subject country and other countries and the industry is in the recovery path. Therefore, the Authority examined the likelihood of recurrence of injury to the domestic industry on account of

continued imports of the subject goods from the subject country in the event of withdrawal of duty.

H.1 Views of domestic Industry

112. In its submissions the domestic industry has argued that market of caustic soda is extremely price sensitive and availability of material from the subject country and other countries at dumped prices would affect the prices of the domestic industry and injure it if such imports are allowed to enter the domestic market at dumped prices. The domestic industry has further argued that price at which Qatar Vinyl has exported the product to various countries and prices from Qatar to India was higher than prices from other countries. About 74,000 MT was imported from China at a price quite close to the price from Qatar. Further, there is a significant variations in the price at which Qatar Vinyl has exported to other countries and India. Price to other countries was much higher than the price at which material has been exported to India. It has been further argued that Qatar Vinyl cannot export to Indian market without selling the product at a price comparable to the price at which other countries are exporting. Thus, the price at which Qatar Vinyl is potentially likely to export should be the price at which goods are being imported from other countries. At these prices, the volumes of imports from these countries are likely to increase as is evident from the trend of import volumes during the injury period. Any significant increase in volume of dumped imports at this price level would lead to injury to the domestic industry. It has been argued that all past investigations have shown that market for caustic soda is highly price sensitive and the imports are being made in view of the fact that the landed prices of imports have been lower than selling price of the domestic industry. So price sensitive the market is that a difference of Rs. 500 pmt can lead to loss of order. The price sensitivity of the product coupled with disposable capacity available with the producer in Qatar and surplus capacity in the world market establishes the likelihood of recurrence of injury if the duties are revoked,

113. As recorded earlier the domestic industry in its post disclosure submissions has argued that the condition of the domestic industry continues to be fragile and the industry is likely to suffer injury in case of any further reduction in the prices or increase in the import volumes. In a situation where the performance of the domestic industry remained fragile, the anti dumping duties should be extended further. The domestic industry has added capacities and therefore it is required to be protected from likely dumped imports as has been held in other jurisdictions in similar situations. The price undercutting, without prevailing anti dumping duties, is positive and the landed price of imports is below not only selling price of the domestic industry but also non injurious price of the domestic industry. The price trend for the post POI period would show that the prevailing prices have already declined significantly. Therefore, there is a strong likelihood of recurrence of injury to the domestic industry if the duties are revoked

H.2 Views of Exporters

114. The responding exporter from Qatar, in its submissions has argued that highest increase of volumes from China is eating into the market share of the

Domestic Industry and the threat of injury to the Domestic Industry, if any, is due to this growing import from China and not from Qatar. It has been further argued that as per the information published by AMAI Annual Report 2006-2007, which forecasts the expected capacities over a period of the next six years, highest growth in terms of the capacity building is in the year 2007-2008 which is pegged to be at the rate of 14.16%. Thus, the investments being made must be with sense of detailed studies as regards the demand of the product in this country and therefore there ought not to be any threat of injury as has been made out. Quoting the written submissions filed by the Petitioners the exporter has argued that the price differential between the landed value from Qatar and China is to the tune of 23% and therefore, threat of injury, if any, exists from exports from China and not Qatar.

H.3 Examination by the Authority

115. The issues raised by the interested parties have been examined. The Authority notes that Qatar does not have any significant demand for the subject goods in the home country though it has a major production base. Though major portion of QVC's production is committed to long term contract supplies to Australian and South African markets, it cannot be concluded that these supplies will not be available for the Indian market. Marginal decrease in demand in Australian market or availability of other sources such as Taiwan would make significant quantities available for the Indian market because of its proximity. Any significant increase in quantity of imports from the subject country would put a volume pressure on the domestic industry which is in the recovery path.

116. The price levels of QVC in different markets, taking into account the contract prices, indicates that the spot prices to India would continue at dumped prices. The price level at which these goods have been exported indicates that there is a significant price undercutting and underselling at the current level of prices. There is no indication or valid argument that the price structure of imports from the subject country will change upwards, once the duty is revoked. On the contrary, looking at the available capacity and demand supply position of the exporter, and price from other competing supply sources such as China, there is every possibility that volume of imports from the subject country is likely to increase and the price level is likely to dip, if the duties are revoked. While the domestic industry is in the path of recovery after imposition of antidumping duty on several countries and shows improvement in its performance, significant increase in volume of imports from Qatar and other countries, with the current level of undercutting, or drop in prices due to competing prices from certain sources as argued by the domestic industry, as well as the exporter, is likely to erode the profitability of the domestic industry and cause recurrence of injury to the domestic industry, which already has significant unutilized capacities. Therefore, the Authority concludes that revocation of duty on Qatar is likely to result in recurrence of injury to the domestic industry.

I. Conclusions

117. After examining the issues raised and submissions made by the interested parties and facts available before the Authority through the submission of interested

parties or otherwise, as recorded in the above findings, and on the basis of the above analysis of the state of current dumping and injury and likelihood of continuation or recurrence of dumping and injury, the authority concludes that:

- i) The subject goods have entered from Qatar at less than its normal value and the dumping margins of the subject goods imported from Qatar are substantial and above de minimis;
- ii) There is also a likelihood of dumping to continue from Qatar, if the duties are revoked;
- iii) The domestic industry does not suffer marginal material injury at present; and
- iv) Injury to domestic industry is likely to recur, if the duties on import subject goods from Qatar are revoked
- v) Therefore, continued imposition of the antidumping duty is warranted against subject goods originating in or exported from Qatar, to offset continuation of dumping and recurrence of injury to the domestic industry.

J. Indian industry's interest & other issues

118. 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 country in any way, and, therefore, would not affect the availability of the products to the consumers.

K. Recommendations

119. In view of positive determination of continuation of dumping from the subject country, and likelihood of recurrence of injury on account of imports from the subject country, the Authority is of the opinion that continuation of the measure is required against imports from the subject country. However, considering the current level of dumping from that country, the Authority is of the opinion that the measure in force needs to be revised. Therefore, Authority considers it necessary and recommends continued imposition of the anti-dumping duty on imports of subject goods from Qatar, in terms of Section 9A (5) of the Act, in the form and manner described hereunder.

120. Having regard to the lesser duty rule followed by the authority, the Authority recommends continued imposition of definitive anti-dumping duty equal to the revised margin of dumping, which is lesser than the margin of dumping in this case, so as to offset dumping and remove likely injury to the domestic industry. The duty in the original investigation was imposed on reference price basis. Therefore, the Authority considers it appropriate to continue the antidumping duty on reference price basis and accordingly, recommends continued imposition of definitive

antidumping duty as the difference between the landed price of the goods and price indicated in Col 9 of the table below on all imports of subject goods originating in or exported from Qatar. For the purpose of this the landed price shall be calculated by adding 1% handling charge and applicable basic customs duty to the CIF value of imports. The duty shall be continued for a further period of five years from the date of expiry of the original measure as extended vide notification No. 43/2007-CUSTOMS dated 21.03.2007.

Duty Table

Sl. No	Sub Heading or Tariff Item	Description of Goods	Specification	Country of origin	Country of Export	Producer	Exporter	Reference Price	Unit of Measure	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)		
1.	2815.11 or 2815.12	Sodium Hydroxide (Caustic Soda)	Any specification and any form	Qatar	Any	M/s Qatar Vinyl Corporation	Any	349.69	MT	US\$
2.	-Do-	-Do-	-Do-	Any other country attracting antidumping duty	Qatar	Any	Any	As per relevant notification	MT	US\$
3	-Do-	-Do-	-Do-	Any other than above	Qatar	Any	Any	349.69	MT	US\$

L. Further Procedures

121. Any 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.

122. The Authority may review the need for continuation, modification or termination of the definitive measure as recommended herein from time to time as per the relevant provisions of the Act and public notices issued in this respect from time to time. No request for such a review shall be entertained by the Authority unless the same is filed by an interested party within the time limit stipulated for this purpose

R. Gopalan
Designated Authority