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No. 15/11/2008 – DGAD
GOVERNMENT OF INDIA
MINISTRY OF COMMERCE & INDUSTRY
(DEPARTMENT OF COMMERCE)
DIRECTORATE GENERAL OF ANTI DUMPING & ALLIED DUTIES

New Delhi, the 26th March, 2009

Notification

Final Findings

Sub: Sunset Review of Anti-Dumping duties imposed on imports of Caustic Soda originating in or exported from EU (excluding France), Indonesia and Chinese Taipei (Taiwan).

Whereas the Designated Authority, having regard to the Customs Tariff Act, 1975 as amended in 1995 and the Customs Tariff (Identification, Assessment and Collection of Duty or Additional Duty on Dumped Articles and for Determination of Injury) Rules, 1995, recommended imposition of provisional Anti Dumping duty on imports of Caustic Soda (hereinafter referred to as subject goods) originating in or exported from EU (excluding France), Indonesia and Chinese Taipei (Chinese Taipei) (hereinafter referred to as subject countries) falling under Sub-heading 28151110, 28151120 and 28151200 vide Notification No 14/39/2002-DGAD dated 08.01.2003 and provisional duty was imposed on the subject goods vide Customs Notification No. 48/2003-Customs dated 27.03.2003. The Designated Authority issued Final Findings vide Notification No 14/39/2002-DGAD dated 1st October 2003 and definitive anti dumping duty was imposed by Ministry of Finance as per Customs Notification No. 168/2003-Customs dated 14.11.2003. The Designated Authority received an application for Mid Term Review filed by an interested party and Mid Term review investigation was initiated vide Notification No. 15/5/2005-DGAD dated 03.06.2005. The Final Findings on Mid Term Review was issued by the Designated Authority vide Notification No. 15/5/2005-DGAD 02.06.2006 and the Ministry of Finance imposed anti dumping duty vide Customs Notification No. 72/2006 dated 10.07.2006

2. Whereas the Designated Authority received an application from the Alkali Manufacturers Association of India for and on behalf of Domestic Industry requesting for Sun Set Review and continuation of the Anti-Dumping Duty levied on imports of Caustic Soda originating in or exported from EU (excluding France), Indonesia and Chinese Taipei (Chinese Taipei) The request was based on the grounds that the expiry of the measures would be likely to result in a continuation or recurrence of dumping and/or injury to the domestic industry. The petitioner claimed with prima facie evidence that cessation of anti dumping duty imposed on subject goods from subject countries is likely to lead to continuation or recurrence of dumping and injury and have requested for continuation and enhancement of the Anti Dumping Duty levied on subject goods from subject countries for a further period of five years. The Authority on the

basis of the positive evidence substantiating the need for a Sunset Review initiated sunset Review vide Notification No.15/11/2008-DGAD dated 7.3.2008 in accordance with Section 9A(5) of the Act to review the need for continued imposition of duties in force and whether the expiry of Anti Dumping Duty would lead to continuation or recurrence of dumping, injury or both.

A. PROCEDURE

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

- (i) After initiation of the Sunset Review investigation, the Authority sent questionnaires along with Initiation Notification to the domestic industry, all known exporters/producers in the subject countries in accordance with Rule 6(4) to elicit relevant information.
- (ii) The Embassies of the subject countries in New Delhi were informed about the initiation of the investigation, in accordance with Rule 6(2), with a request to advise the exporters/producers in their respective countries to respond to the questionnaire within the prescribed time.
- (iii) The Authority sent questionnaires, to elicit relevant information, to the following known producers/exporters from subject countries:-
 - (1) PT Asahimas Chemicals (ASC) - Indonesia
 - (2) PT Sulfindo Adiusaha – Indonesia
 - (3) PT Pabrik Kertas Tjiwi Kimia Tbk – Indonesia
 - (4) PT Indah Kiat Pulp & Paper Tbk – Indonesia
 - (5) Formosa Plastics Corporation (FPC)– Chinese Taipei
 - (6) Dow Chemical – Greese
 - (7) Solvey Fluor GmbH – Germany
 - (8) Bayer AG – Germany
 - (9) Enichem SpA – Italy
 - (10) BASF AG - Germany
- (iv) The following producers/exporters responded to the questionnaire in response to the above notification:-
 1. Formosa Plastics Corporation –Chinese Taipei
 2. PT Asahimas Chemical – Indonesia
 3. Tricon Energy Limited-Houston
- (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 and the requisite information received from the DGCI&S has been relied upon in this investigation.

(vi) The following domestic producers of the subject goods have provided their cost and injury information for injury investigation.

- (1) Gujarat Alkalies & Chemicals Ltd, Baroda and Dahej
- (2) Reliance Industries Limited - Gandhar
- (3) SIEL Chemical Complex - Rajpura
- (4) DCM Shriram Consolidated Limited – Kota and Jhagadia
- (5) Bihar Caustics & Chemicals - Jharkhand
- (6) Grasim Industries Ltd. - Nagda
- (7) DCW Ltd. – Sahapuram
- (8) Solaris Chemtech Ltd. Karwar

(vii) Copy of initiation notification along with the importers questionnaire was also sent to the known importers and users of subject goods in India calling for necessary information in accordance with Rule 6(4).

(viii) In response to the above notification, following importers or users have filed their submissions and information:-

- (1) Hindustan Unilever Limited

(ix) The Authority has considered all views expressed and submissions made by the various interested parties to the extent they are relevant for the present investigation.

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

(xi) The Authority verified the information furnished by the domestic industry to the extent possible to 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) and the information furnished by the applicants so as to ascertain if Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to Domestic Industry.

(xii) In accordance with Rule 6(6), the Authority also provided opportunity to all interested parties to present their views orally in a public hearing held on 16.12.2008. The parties, which presented their views in the public hearing, were requested to file written submissions of the views expressed orally.

- (xiii) Copies of the Initiation Notification were also sent to FICCI, CII, ASSOCHAM for wider circulation
- (xiv) Information provided by interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has granted confidentiality, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.
- (xv) **** In the statement represents information furnished by interested parties on confidential basis and so considered by the Authority under the Rules.
- (xvi) In accordance with Rule 16 of Rules Supra the essential facts basis considered for these findings have been disclosed to known interested parties and comments received thereon duly considered in the findings.
- (xvii) The period of investigation (POI) for the purpose of the present review is 1st Jan 2007 to 31st December 2007 (12 months). However, injury analysis carried out the years 2004-2005, 2005-2006, 2006-07 and POI.

B. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE:

B.1 Views of the domestic industry

4. Following issues have been raised by the domestic industry with regard to product under consideration and like article:

- (i) Present investigation is a review investigation and accordingly product under consideration remains the same as has been defined in the original investigation. There has been no significant development in the product over the period.
- (ii) The subject goods produced by the domestic industry are like article to the imported subject goods.

B.2 Views of the importers, consumers, exporters and other interested parties

5. None of the opposing party has made any submission with regard to product under consideration and like article.

B.3 EXAMINATION BY THE AUTHORITY

6. The product under consideration in the present case is Caustic soda, which is chemically known as Sodium Hydroxide (chemical nomenclature NaOH). Being a sunset review investigation, product under consideration in the present application is the

same as has been in the original investigation. In the Final Findings of the original investigation, the product under consideration has been defined as follows:-

“The product under consideration in the present investigation is Sodium Hydroxide (chemical nomenclature NaOH), commonly known as Caustic Soda originating in or exported from Chinese Taipei, Indonesia and EU (excluding France). Caustic soda is an inorganic, soapy, strongly alkaline and odorless chemical and finds application in various fields like manufacture of pulp and paper, newsprint, viscose yarn, staple fibre, aluminium, cotton, textiles, toilet and laundry soaps, detergent, dyestuffs, drugs and pharmaceuticals, petroleum refining etc. Caustic soda is produced in two forms, i.e. lye and solids by three technology processes, i.e mercury cell process, diaphragm process and membrane process. The difference in these processes does not mean difference in product in terms of various characteristics. Caustic soda is classified under chapter 28 of the customs Tariff Act, 1975 under Customs Head 2815.11 and 2815.12. As per ITC Eight Digit classification, the product is classified under the Custom Heading 2815.1101, 2815.1102 and 2815.1200. The classification, is however, indicative only and is in no way binding on the scope of the present investigation.

It is a well known fact that world over including in India, the Caustic Soda is produced and sold primarily in lye form as (1) Caustic Soda is used in huge quantities, therefore, transportation in lye form even after paying higher transportation cost due to low concentration results in lower effective cost to the purchaser, (2) The conversion of flake requires additional cost. Therefore, the Authority notes that Caustic Soda solid form can be used where lye form is required. The Caustic Soda is produced and sold primarily in lye form as Caustic Soda is used in huge quantities, therefore, transportation in lye form results into lower effective cost even after paying higher transportation for low concentration liquid Caustic Soda. The Authority, therefore, notes that the difference in prices is due to the difference in concentration, higher cost of transportation in lye form vis-a-vis incremental conversion cost required for making solid form.

The Authority notes that the goods manufactured by domestic industry are like article to the goods produced, and exported from the subject countries. Both are technically and commercially substitutable and the consumers are using the domestically produced and imported goods interchangeably. The Authority, therefore, notes that the investigation covers all forms of caustic soda both Lye and flakes, and all different forms of the subject goods are used substitutably depending on the requirement of the user. The Authority in view of submissions made by interested parties and keeping in view the substitutability and interchangeability of the goods exported from subject countries and those produced by the Domestic Industry, considers the subject goods exported and the domestically produced subject goods as like article as per Rule 2(d) of rules Supra. The Authority further for the purposes of dumping margin has made appropriate comparisons on DMT basis only.”

7. The Authority has noted that none of the opposing interested parties has raised any objection with regard to the product under consideration and like article. The Authority therefore confirms the determination made in the original investigation and mid term review investigation in this regard.

C. Domestic Industry

C.1 Views of the domestic industry

8. The petition has been filed by Alkali Manufacturers Association of India for and on behalf of the domestic industry and all producers of Caustic Soda in India are members of the Association. Following producers have expressly supported the petition and provided costing and injury information:-

- (1) Gujarat alkalis & Chemicals Ltd, Baroda and Dahej
- (2) Reliance Industries Limited - Gandhar
- (3) SIEL Chemical Complex - Rajpura
- (4) DCM Shriram Consolidated Limited – Kota and Jhagadia
- (5) Bihar Caustics & Chemicals - Jharkhand
- (6) Grasim Industries Ltd. - Nagda
- (7) DCW Ltd. – Sahapuram
- (8) Solaris Chemtech Ltd. Karwar

9. In addition to the above, M/s. Andhra Sugars Limited and Punjab Alkalies & Chemicals have supported the investigation and they must be considered as “domestic industry” within the meaning of the rules.

10. The production of participating companies constitutes a major proportion (more than 50%) in Indian Production and therefore petitioner should be treated as “domestic industry” within the meaning of the Rules.

C.2 Views of the importers, consumers, exporters and other interested parties

11. The interested parties have argued that the composition of the domestic industry changed in the mid-term review investigation and Injury should be examined for domestic industry as a whole. As all producers are members of Association and therefore, injury information should be filed for all producers, else, domestic industry should be declared as non-cooperative. Moreover, there is inconsistency in the data/information filed.

C.3 Examination by the authority

12. The Authority has noted that arguments of the opposing interested parties with regard to changing composition of domestic industry have been without giving any legal or factual basis. It is noted that there has been no legal requirement that the scope and constitution of the domestic industry in Sunset Review investigation and in the original

investigations should be the same. It could not be established that how the investigation has got distorted because of the changing composition of the domestic industry.

D. DUMPING DETERMINATION: Normal Value, Export Price and Dumping Margin

D.1 Views of the domestic industry

13. The normal value in subject countries should be determined on the basis of prevailing prices of Caustic Soda prevailing in the domestic market of subject countries. The normal values have been claimed on the basis of price prevailing in subject countries on the basis of Chlor Alkali. Export price has been claimed on the basis of weighted average of the import prices. It has been stated that considering the expenses incurred between CIF import price and ex-factory level, it would be seen that the Foreign Producers have continued dumping.

14. It has been further stated that dumping from subject countries is likely to continue in the event of revocation of anti dumping duties. In fact, dumping is likely to intensify in the event of revocation of anti dumping duties as production capacities in each of the subject country/territory have been far above the domestic demand.

D.2 Views of exporters/importers and other interested parties

15. M/s PT Asahimas Chemicals (ASC) - Indonesia and M/s Formosa Plastics Corporation (FPC), Chinese Taipei have claimed that subject goods exported to India were not exported at dumped prices and they do not have unutilized capacities available at their end. It has been further stated that there is no ground, on the basis of which the Designated Authority can determine that exports of subject goods likely to lead to recurrence of dumping and injury to the domestic industry.

D.3 Examination by the Authority

16. The Authority has noted that Sunset Review application has been filed by Alkali Manufacturers Association of India and all producers of subject goods are members of the Association. The data for investigation and verification have been provided by the members mentioned at Para 9 above. The Authority has also noted that standing need not to be checked during Sunset Review. The Authority has also noted that cost elements have to be taken into account in accordance with Article 2.2.1.1 of ADA and Para 1 of Anti Dumping Rules as per books of records kept by the producer/exporter and accordingly has calculated the elements of costs for the cooperating producers/exporters and different producers of the domestic industry.

D.4 CHINESE TAIPEI:

D.4.1 Normal value

17. The Authority sent copies of the exporter's questionnaire to all known producers/exporters for the purpose of determination of normal value in accordance with Section 9A (1)(c). M/s. Formosa Plastics Corporation (FPC) has submitted its response to the exporters' questionnaire. They have exported the subject goods to India during the period of investigation and the same has been verified by the Designated Authority during the verification visit. The cooperating exporter M/s Formosa Plastics Corporation (FPC) provided information on transaction-wise details of sale in home market. For the purpose of determination of normal value, the domestic sales of the goods produced by the company have been taken into consideration. The adjustments have been claimed towards Rebate, Inland freight, Packing, and Credit cost. The normal value after adjustments on verification has been determined as US\$ **** per DMT.

D.4.2 Export price for M/s Formosa Plastic Corporation and M/s Tricon Energy Ltd., Houston, USA

18. The exporter provided transaction-wise information on export sales to India. The export sales made through M/s Tricon Energy, Houston, USA have been taken into consideration. The sales price from M/s Formosa to M/s Tricon has been taken into consideration for determination of net export price. From the sale price of M/s Formosa Plastic Corporation, for calculating the net export price the expenses on account of Inland freight, Trade promotion fee, Harbor service fee, Ocean freight, Marine insurance, Commission, Clearance & handling, loading and ancillary expenses, Packing expenses, Bank charges, Negotiation interest, etc. have been adjusted. After allowing these deductions as verified, the net export price has been determined as US\$ **** per DMT.

D.4.3 Export Price for Non-cooperating Exporters

19. For Non-cooperating exporters, the net export price has been arrived on the basis of average value of Lye export transaction of the DGCI&S data. For non-cooperating exporters during the POI and the net export price has been determined as US\$ **** per DMT.

D.5 Indonesia

D.5.1 Normal Value

20. The Authority sent questionnaires to all known exporters/producers for the purpose of determination of normal value. M/s. PT Asahimas Chemical, Indonesia responded to the questionnaire. They have exported the subject goods to India during the period of investigation and the same has been verified by the Designated Authority during the verification visit. The cooperating exporter M/s PT Asahimas Chemical (ASC) provided information on transaction-wise details of sales in home market. The invoice(s) for the domestic sales were made on the Liquid MT (LMT) basis, however, for the purpose of the investigation; the same has been converted into Dry MT basis (DMT). For the purpose of determination of normal value, domestic sales of the goods

produced by the company have been taken into consideration. The adjustments claimed on account of Discount, Inland freight, Tank rental, Royalty and Credit cost have been allowed after verification. After adjustments as verified, the normal value has been determined as US\$ ****per DMT.

D.5.2 Export price for M/s PT Asahimas Chemical and M/s Tricon Energy Ltd., Houston, USA

21. The exporter provided transaction-wise information on export sales to India. The export sales have been made through M/s Tricon Energy, Houston, USA and taken into consideration. The invoices for the export sales were made on the Liquid MT (LMT) basis, however, for the purpose of the investigation, the same has been converted into Dry MT basis (DMT). The sales price from M/s PT Asahimas to M/s Tricon has been taken into consideration for determination of net export price. From the sale price of M/s PT Asahimas, for determination of net export price, the expenses on account of bank charges. have been adjusted. After making these deductions as verified, the net export price has been determined as US\$ **** per DMT.

D.5.3 Export Price for Non-cooperating Exporters

22. For Non-cooperating exporters, the net export price has been calculated on the basis of lowest value export transaction of the DGCI&S data. For non-cooperating exporters, the net export price has been determined as US\$ ****per DMT.

D.6 EU (Excluding France)

D.6.1 Normal value

23. The Authority sent questionnaires to all known producers/exporters for the purpose of determination of normal value and dumping margin. None of the exporters/producers from EU (excluding France) filed submissions and response to the questionnaire in the form and manner prescribed. Article 6.8 of the Agreement provides that in case an interested party refuses access to, or otherwise does not provide necessary information within a reasonable period or significantly impedes the investigation, preliminary and final determinations, affirmative or negative, may be made on the basis of the facts available. Since none of the exporters/producers from EU (excluding France) has filed the submissions for determination of normal value, the normal value for all exporters/producers has been determined based on the facts available as per Rule 6(8) of AD Rules. The domestic industry has submitted that it made best efforts to procure evidence of the domestic prices prevailing in the domestic market but could not procure actual transaction prices for the period of investigation. Since actual transaction information is unavailable, the domestic industry submitted that information provided by Chlor Alkali price can be considered as a reasonable and sufficient basis for determination of normal value with appropriate adjustments. In the absence of better information, the information provided by the domestic industry from the secondary sources, i.e., Chlor Alkali price has been considered as the basis for determination of normal value. The past Investigations have revealed that the prices

published in Chlor Alkali have been quite close to the actual transaction prices Thus, the Authority considers that the prices reported in Chlor Alkali are quite representative and reasonable evidence of normal value of the subject goods in subject territory. The normal value has been therefore determined on the basis of prices published in Chlor Alkali. The prices have been considered as delivered prices and an adjustment for possible inland freight have been made to determine the normal value at ex-factory level. The normal value has been accordingly determined as US\$ ****per DMT for all exporters / producers from European Union (excluding France).

D.6.2 Export price:

24. The export price has been determined on the basis of transaction wise import statistics provided by DGCI&S containing bill of entry no., date, country code, quantity, value, description of the product and name of the importer etc. On examination of import data, it has been found that the transaction wise data provided by the DGCI&S were having import data of other products also. Therefore, import data was analyzed and segregated for the product under consideration, which was further, segregated for caustic soda lye and flake/solid forms. As per DGCI&S import statistics for the POI, subject territory did not exported caustic soda liquid/flakes during the POI. However, as per IBIS data, there is export of **** MT at US\$ **** per MT. The ex-factory export price has been accordingly determined as US\$ **** per MT for all exporters/ producers from EU (excluding France).

E. Dumping margin

25. Considering the normal value and export price determined as detailed above, dumping margin has been determined in respect of imports reported in India during the investigation period as given in the following table.

	<u>Normal Value</u>	<u>Export Price</u>	<u>Dumping Margin</u>	<u>Dumping Margin</u>	<u>Dumping Margin</u>
Producer/Exporter	US\$/DMT	US\$/DMT	US\$/DMT	%	Range(%)
Chinese Taipei					
Formosa & Tricon	****	****	****	****	(1-8)
Others	****	****	****	****	(10-20)
Indonesia					
PT Asahimas & Tricon	****	****	****	****	(8-15)
Others	****	****	****	****	1-10
All producers/exporters from European Union(Excluding France)	****	****	****	****	5-15

F. METHODOLOGY FOR INJURY DETERMINATION AND EXAMINATION OF CAUSAL LINK

F.1 Injury Determination

F.2 Views of exporters, importers, users etc

26. The opposing interested parties have argued that there have been no injury to the domestic industry and performance of the domestic industry has improved after imposition of anti dumping duty and the Authority should terminate the investigation as there is no injury or threat thereof to the domestic industry. Injury to the domestic industry, if any, is self inflicted. There is no information or credible evidence to show that there is likelihood of recurrence of dumping and injury to the domestic industry.

F.2.1 Views of the domestic industry

27. The domestic industry has raised following arguments with regard to injury and causal link:-

- (i) Even after the improvement in the performance of the domestic industry, return on investment is still insufficient.
- (ii) The market share of the domestic industry has marginally improved and imports from other countries attracting duties have increased with the significant surge during the investigation period and clearly establishes vulnerability of the domestic industry.
- (iii) In spite of increase in sales and market share of the domestic industry, the price at which subject goods are being sold by the domestic industry do not provide due relief to the domestic industry due to continued availability of dumped material in the Indian market.
- (iv) Performance of the domestic industry in terms of various price parameters, such as profits, return on investments and cash flow has declined from base year and return on investment is not sufficient.
- (v) 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 price of imports have been lower than selling price of the domestic industry. The market is so price sensitive that a difference of Rs. 500 PMT leads to loss of order.
- (vi) The subject goods would enter the Indian market from subject countries at dumped prices below the selling price and non-injurious price of the domestic industry.
- (vii) That the subject countries have huge production capacities with freely disposal capacities and the unutilized capacities are 297000 MT in case of Indonesia,

105000 MT in case of Chinese Taipei and 1833000 MT in case of EU(excluding France) and injury to the domestic industry is likely in the event of revocation of anti dumping duties.

F.2.2 Examination by the Authority

28. The Authority has noted that for the sunset review, the relevant provisions of Section 9(A)(5) of the Customs Tariff Act read as under:

“The anti-dumping duty imposed under this section shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition: Provided that if the Central Government, in a review, is of the opinion that the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury, it may, from time to time, extend the period of such imposition for a further period of five years and such further period shall commence from the date of order of such extension.”

29. The Authority has noted that Rule 23 of the Anti-dumping Rules provide for procedure for conducting sunset review. The Authority also notes that as per Rules, present state of injury is to be assessed in the sunset review.

30. The Authority has noted that 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 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. The Authority has considered the price effect of the dumped imports, 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.

31. For the purpose of assessing present state of injury, the Authority has noted 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.

32. The Authority has taken note of various arguments on injury and considered the relevant issues raised at appropriate places. The Authority has examined the injury parameters objectively taking into account the facts and the arguments of the interested parties.

F.2.3 Assessment of demand

33. For the calculation of the domestic consumption/demand of the product under consideration, the Authority has considered the sales volume of the domestic industry and other Indian producers as well as the total imports into India.

Unit in MT	2004-05	2005-06	2006-07	Jan'07- Dec'07(POI)
Domestic Sales of Domestic industry	****	****	****	****
Trend	100	105	107	117
Captive of Domestic industry	****	****	****	****
Trend	100	93	96	103
Sales of Other Indian Producers	****	****	****	****
Trend	100	108	110	108
Total Imports	59522	54526	147480	138298
Trend	100	92	248	232
Demand	1840950	1938640	2067840	2135692
Trend	100	105	112	116
Export Sales of Domestic industry	****	****	****	****
Trend	100	145	169	147

34. The Authority has noted that the demand has shown a positive trend over the injury period and increased by 16% in POI from the base year 2004-05.

F.2.4 Import volumes and market share

35. With regard to the volume of the dumped imports, it has been examined whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India. Annexure-II (ii) of the Anti-dumping rules provides as under: -

“While examining the volume of dumped imports, the said authority shall consider whether there has been a significant increase in the dumped imports, either in absolute term or relative to production or consumption in India

36. The Authority has examined the claim of the domestic industry as per DGCI&S data and has also considered the questionnaire response filed by the responding

exporters. The Authority has determined the volume of imports based on DGCI&S source only.

Particulars	Unit	2004-05	2005-06	2006-07	Jan'07- Dec'07(POI)
Market share in Imports					
Indonesia	MT	4,328	-	3,352	17,068
Trend	Indexed	100	-	77	394
Chinese Taipei	MT	-	-	-	829
Trend	Indexed	-	-	-	-
EU excluding France	MT	2,679	6,304	6,038	-
Trend	Indexed	100	235	225	-
Subject Countries	MT	7,007	6,304	9,390	17,897
Trend	Indexed	100	90	134	255
Other Countries attracting anti- dumping duty	MT	27,155	46,325	131,954	114,361
Trend	Indexed	100	171	486	421
Other Countries	MT	25,359	1,897	6,136	6,041
Trend	Indexed	100	7	24	24
Total Imports	MT	59,521	54,526	147,480	138,299
Trend	Indexed	100	91.61	247.78	232.35
Market share in Imports					
Indonesia	%	7.27	-	2.27	12.34
Chinese Taipei	%	-	-	-	0.60
EU excluding France	%	4.50	11.56	4.09	-
Subject Countries	%	11.77	11.56	6.37	12.94
Other Countries attracting anti- dumping duty	%	45.62	84.96	89.47	82.69
Other Countries	%	42.60	3.48	4.16	4.37
Market share in Demand					
Indonesia	%	0.24	-	0.16	0.80
Chinese Taipei	%	-	-	-	0.04
EU excluding France	%	0.15	0.33	0.29	-
Subject Countries	%	0.38	0.33	0.45	0.84
Countries attracting anti-dumping duty	%	1.48	2.39	6.38	5.35
Other Countries	%	1.38	0.10	0.30	0.28
Domestic industry	%	50.32	49.63	47.39	50.11
Other Indian Producers	%	46.45	47.56	45.47	43.42

37. The Authority has noted that:

- a) The volume of total imports has increased from 2004-05 to POI.
- b) Share of subject countries in total imports into India declined from 0.38% in 2004-05 to 0.33% in 2005-06 and thereafter increased to 0.45% in 2006-07 and 0.84% during POI.
- c) The market share in demand in respect of imports from subject countries was only 0.38% during 2004-05 and increased to the level of 0.84% during POI. At the same time, share of other countries already attracting anti dumping duties has also increased from 1.48% to 5.35% over the same period. The share of domestic industry, which was 50.32% during 2004-05 has declined marginally to 50.11% during POI.

38. The Authority has noted that even when the imports from subject countries attracted anti dumping duties, the imports have marginally increased from 0.38% in 2004-05 to 0.84% during POI.

F.2.5 Price effect of the dumped imports on the Domestic Industry

39. In a review investigation, it is required to examine whether there has been a significant price effect by the dumped imports as compared with the price of like product in India or whether there is likelihood of recurrence of price effect after revocation of duty.

40. With regard to the effect of the dumped imports on prices, it has been examined 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.

F.2.6 Price undercutting

41. In order to ascertain the price undercutting being caused by the dumped imports, the Authority has compared net sales realization of the domestic industry with the landed price of imports. The net sales realization has been arrived after deducting all rebates and taxes. Landed value of imports has been calculated by adding 1% handling charges and applicable basic customs duty to the CIF value of subject imports. The landed value of imports compared with net sales realization of the domestic industry shows that the imports from Indonesia and Chinese Taipei have not been undercutting the prices of the domestic industry during POI and there have been no exports from EU (excluding France) during POI and accordingly price undercutting in that case could not be ascertained. Therefore, price for the period 2006-07 has been considered for the POI in respect of Caustic Soda Lye in case of EU (excluding France). DGCI&S data for

the period 2006-07 shows that import of Caustic Soda Flakes from EU (excluding France) has been **** MT only at a price of Rs. **** per MT which is quite abnormal.

	2004-05	2005-06	2006-07	Jan'07- Dec'07(POI)
CIF export price Rs/MT (Lye)				
Indonesia	****	-	****	****
EU-Excluding France	****	****	****	****
CIF export price Rs/MT (Flake)				
Indonesia	-	-	****	-
Chinese Taipei	-	-	-	****
EU-Excluding France	****	****	****	-
Landed price of imports (Lye)				
Indonesia	****	-	****	****
EU-Excluding France	****	****	****	****
Landed price of imports (Flake)				
Indonesia	-	-	****	-
Chinese Taipei	-	-	-	****
EU-Excluding France	****	****	****	-
Net sales realization (Rs/Mt)				
Lye	****	****	****	****
Flake	****	****	****	****
Cost of sales (Rs/Mt)				
Lye	****	****	****	****
Flake	****	****	****	****
Price undercutting price Rs/MT				
Indonesia - Lye				****
Chinese Taipei - Flake				****
EU (excluding France) – Lye				****

F.2.7 Price Underselling

(Value in Rs./MT)

Net Sales Realisation (Lye)	****
Net Sales Realisation (Flake)	****
Net Sales Realisation (weighted average)	****
Non Injurious Price (Lye)	****
Non Injurious Price (Flake)	****

NIP (weighted average)	****
Landed Value - Solid (Chinese Taipei)	****
Price Underselling-Lye (Chinese Taipei)	****
Price Underselling (%) - Solid	****
Price Underselling (%) range	(1-10)
Landed value (Indonesia) – Lye	****
Price Underselling (Indonesia)-Lye	****
Price Underselling (%) – Lye	****
Price Underselling(%) range	1-10
Landed Value (EU except France) – Lye & Solid	****
Price Underselling (EU except France) – Lye & Solid	****
Price Underselling (%) – Wt. Avg.	****
Price Underselling(%) range	5-15
Landed value (Subject Countries)	****
Price Underselling	****
Price Underselling (%)	****
Price Underselling range	10-20

42. The price underselling have been negative in case of Chinese Taipei and EU (excluding France) while same has been positive in case of Indonesia during POI.

F.2.8 Price suppression/depression

43. In order to assess whether the imports from the subject countries were suppressing/ depressing the prices of the domestic industry, the Authority compared the trends in selling prices and cost of production.

Unit in MT	2004-05	2005-06	2006-07	Jan'07- Dec'07(POI)
Net sales realization (Rs/Mt)				
Lye	****	****	****	****
Trend	100	111	119	118
Flake	****	****	****	****
Trend	100	112	126	121
Cost of sales (Rs/Mt)				
Lye	****	****	****	****
Trend	100	108	121	128
Flake	****	****	****	****
Trend	100	112	116	115

44. The Authority has noted that selling prices of the domestic industry increased over the years, however, increase in selling price has been lower than increase in cost of production, in case of caustic soda lye only and there has been no price suppression in case of caustic soda flakes as increase in selling price is higher than increase in cost of production.

F.3 Economic Parameters relating to the Domestic Industry

45. Annexure II to the Rules requires that a determination of injury shall involve an object examination of the consequent impact of these imports on domestic producers of such products. With regard to consequent impact of these imports on domestic producers of such products, the Rules further provide that the examination of the impact of the dumped imports on the domestic industry should include an objective and unbiased evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of the margin of dumping; actual and potential negative effects on cash flow inventories, employment, wages, growth, ability to raise capital investments.

F.3.1 Production, sales, capacity and capacity utilization

46. Production, sales, capacity & capacity utilization of the domestic industry has been as under:-

	Unit	2004-05	2005-06	2006-07	POI
Capacity	MT	****	****	****	****
Trend	Indexed	100	109	128	129
Production	MT	****	****	****	****
Trend	Indexed	100	106	111	121
Domestic sales	MT	****	****	****	****
Trend	Indexed	100	104	106	116
Capacity utilization	%	97.70	95.28	84.85	91.87
Trend	Indexed	100	98	87	94
Unutilized Capacity	MT	****	****	****	****
Trend	Indexed	100	224	841	455

47. The Authority has noted that capacity, production and sales of the domestic industry increased in absolute terms but capacity utilization declined over the period till 2006-07, which increased in POI.

F.3.2 Profit, return on capital employed and cash flow

	Unit	2004-05	2005-06	2006-07	POI
Profit/(Loss) (PBT)	Rs/Lacs	****	****	****	****
Trend	Indexed	100	133	145	98
Profit/(Loss) before interest (PBIT)	Rs/Lacs	****	****	****	****
Trend	Indexed	100	119	131	95
Return on investment (NFA basis)	%	9.01	9.74	9.82	7.73
Trend	Indexed	100	108	109	86
Cash profits	Rs/Lacs	****	****	****	****
Trend	Indexed	100	123	136	108

48. The profit of the domestic industry increased up to 2006-07 and declined in POI.

49. The domestic industry improved its return on investments up to 2006-07 and the same declined during POI.

50. All the domestic producers part of domestic industry are multi product companies and cash flow situation of the companies would not be indicative of the situations in the subject product. The Authority has examined cash profits over the years and the same position with regard to cash profit shows that it improved upto 2006-07 and the same declined in POI.

F.3.3 Employment, wages and productivity

	Unit	2004-05	2005-06	2006-07	POI
Number of employees	Nos.	****	****	****	****
Trend	Indexed	100	98	97	95
Wages	Rs/Lacs	****	****	****	****
Trend	Indexed	100	114	134	136
Productivity	MT/person	****	****	****	****
Trend	Indexed	100	109	114	127

51. The Authority has noted that employment has declined over the years. Wages have shown increase, which appears normal. Productivity, expressed in terms of production per employee has shown improvement.

F.3.4 Inventories

52. Average stock of finished products with the domestic industry has shown increasing trend in absolute term as also in relation to number of days' sales.

	Unit	2004-05	2005-06	2006-07	POI
Average stock	Mt	****	****	****	****
Trend	Indexed	100	79	85	152
No. of days sales in stock	Days/Mt	****	****	****	****
Trend	Indexed	100	75	76	126

F.3.5 Growth

53. The capacity, production, productivity and sale have shown positive growth throughout the period. The profits and return on the capital employed increased upto 2006-07 and the same declined in POI.

F.4 Injury margin

54. Considering the Non-injurious price (NIP) and landed value, injury margin has been arrived for the investigation period as given in the following table.

	<u>NIP</u>	<u>Landed Value</u>	<u>Injury Margin</u>	<u>Injury Margin</u>	<u>Injury Margin</u>
Producer/Exporter	US\$/DMT	US\$/DMT	US\$/DMT	%	Range (%)
Chinese Taipei					
Formosa & Tricon	****	****	****	****	(1-10)
Others	****	****	****	****	1-10
Indonesia					
PT Asahimas & Tricon	****	****	****	****	1-10
Others	****	****	****	****	5-15
All producers /exporters from European Union(Excluding France)	****	****	****	****	(1-10)

G. Others Known Factors which could be contributing injury to domestic industry

G.1 Volume and prices of imports from other sources

55. The total Imports from all countries increased from 59521 MT in 2004-05 to 138299 MT in POI. It has also been noticed that some other countries have also been attracting anti-dumping duty during the injury period and POI. The imports from other countries not attracting anti-dumping duty has declined from 25359 MT in 2004-05 to 6041 MT during POI and therefore, it does not appear to be a factor affecting the performance of the domestic industry.

G.2 Contraction in demand and / or change in pattern of consumption

56. The demand of the subject goods has increased by 16% (indexed) during POI as compared to base year. Contraction in demand, therefore, is not a possible reason, which could be affecting the performance of the domestic industry.

G.3 Trade restrictive practices of and competition between the foreign and domestic producers

57. The subject goods have been freely importable and there no trade restrictive practices in the domestic market. Therefore, this factor could not be reason affecting the performance of the domestic industry.

G.4 Development of technology and export performance

58. Technology for production of the product is same for the domestic industry and as used by the producers in the subject countries and accordingly development in technology is not a factor which could affect the performance of the domestic industry.

59. The domestic industry has a very small export activity i.e. 3.67% of their total sales (including captive) during the POI and the export sales cannot be considered a factor affecting the performance of the domestic industry.

G.5 Productivity of the Domestic Industry

60. Productivity of the domestic industry measured as production per employee have improved from **** MT/person in 2004-05 to **** MT/person during POI and can not be considered a factor affecting the performance of the domestic industry.

H. Causal Link, Likelihood of Continuance or Recurrence of Dumping and Injury

H.1. Views of the Domestic Industry

61. The domestic industry has raised the following arguments:

- (i) The return on investment of the domestic industry is still insufficient.
- (ii) The market share of the domestic industry has marginally improved and imports from other countries attracting duties have increased with the significant surge during the investigation period and dumped imports from subject countries shall surge in case duties are withdrawn.
- (iii) Due to continued availability of dumped material in the Indian market, the price at which subject goods are being sold by the domestic industry do not provide due relief to the domestic industry.

- (iv) Performance of the domestic industry in terms of various price parameters, such as profits, return on investments and cash flow has declined from base year and return on investment is not sufficient.
- (v) 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 price of imports has been lower than selling price of the domestic industry. The market is so price sensitive that a difference of Rs. 500 PMT leads to loss of order.
- (vi) The subject goods would enter the Indian market from subject countries at dumped prices below the selling price and non-injurious price of the domestic industry.
- (vii) That the subject countries have huge production capacities with the unutilized capacities of 297000 MT in case of Indonesia, 105000 MT in case of Chinese Taipei and 1833000 MT in case of EU(excluding France) and injury to the domestic industry is likely in the event of revocation of anti dumping duties.

H.2 Views of M/s. PT Asahimas Chemical, Indonesia

62. M/s PT Asahimas, Indonesia have stated that during the post-POI period i.e. 2008, they did not export to India. Moreover, they exported to different countries at a higher price in 2008 than the export price to India in the POI. They have also stated that they do not have any unutilized capacity as they utilized their capacity to the extent of 98.02% during the POI or increasing inventories, thus, they have no propensity to dump the subject goods to India.

63. It has been informed that there are four other producers of the subject goods in Indonesia viz. PT. Sulfindo Adiusaha, PT Pabrik Kertas Tjiwi Kimia, PT. Indah Kiat Pulp & Paper and PT Pindo Deli having approx. capacity 225000 DMT, 65000 DMT, 110000 DMT and 40000 DMT per annum respectively. It was also informed that PT Pabrik Kertas Tjiwi Kimia and PT Pindo Deli both use subject goods captively as well as sell in the market and PT. Indah Kiat Pulp & Paper have captive consumption only.

H.3 Views of M/s Formosa Plastic Corporation, Chinese Taipei

64. M/s Formosa, Chinese Taipei has stated that a) there is no dumping of the subject goods exported to India and b) there is also no injury of the exports made to India, both in terms of volume and price. In terms of the exports to India, its share is only 0.53% of the total imports and mere 0.043% of the demand of India during the POI. Even after the POI, the exports have reduced to the extent of 11.90 % of what has been exported to India during the Period of Investigation (i.e. from 941 MT during the POI to 112 MT during 2008). The total sales to India are less than 0.0001% of the total sales of the Company. Moreover, they do not export Caustic Soda Lye to India. By way of

journal relied upon published by Chlor Alkali Report, it clearly shows that the exports have been made in line with the international pricing. The exports are mainly made to the US and Australia. The exports made in the mid year of 2008 to other countries especially Asia Pacific, wherein India forms part of the same are in line with international pricing sourced from Harriman reports.

65. It has been informed that there are four other producers in Taiwan viz. CGPC, Taiwan Chlorine Industry, Yee Fong Chemicals and Chung Hwa Pulp with approx. capacity of 33000 DMT, 125000 DMT, 77000 DMT and 17000 DMT per annum respectively. Taiwan Chlorine Industry and Yee Fong Chemicals both use PUC captively as well as sell in the market. Chung Hwa Pulp use PUC captively only.

H.4 Examination by the Authority

66. The imports from Indonesia and Chinese Taipei have not been undercutting the price of the domestic industry as detailed at Para 42 above.

67. In respect of Indonesia and Chinese Taipei, the data reported in the World Trade Atlas has also been analyzed and indicate that the prices from these countries to other countries and India are in line though the exports to India are insignificant in comparison to exports made to other countries.

68. The data of exports from Indonesia and Chinese Taipei as per World Trade Atlas (WTA) is as under:

Export of Caustic Soda Lye (CSL) and Caustic Soda Flake (CSF) from Indonesia and Chinese Taipei to India and other countries

Indonesia

US\$/MT

Particulars	Unit	2005	2006	2007	2008
World	Caustic Soda Lye-Quantity	59393	76876	79288	Not Available.
	Caustic Soda Lye-Price	280	290	280	Not Available.
India	Caustic Soda Lye-Quantity	7075	3210	17125	Not Available.
	Caustic Soda Lye-Price	310	720	280	Not Available.
	% of Quantity export to India as to total exports to World	11.91	4.18	21.60	Not Available.
World	Caustic Soda Flake-Quantity	5164	8781	10257	Not Available.
	Caustic Soda Flake-Price	310	300	360	Not Available.
India	Caustic Soda Flake-Quantity	-	1031	-	Not Available.
	Caustic Soda Flake-Price	-	600	-	Not Available.
	% of Quantity export to India	-	11.74	-	Not

	as to total exports to World				Available.
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69. It has been observed from the above that the average FOB export price of Indonesia to India of Caustic Soda Lye has been US\$ 280 per MT which is in line with the export price to the World i.e. US\$ 280 per MT during POI. There has been no export of Caustic Soda Flakes to India during POI. The WTA data is not available for Indonesia for 2008 i.e. post-POI period.

Chinese Taipei

US\$/MT

Particulars	Unit	2005	2006	2007	2008
World	Caustic Soda Lye-Quantity	517808	621926	764914	739780
	Caustic Soda Lye-Price	212.38	196.56	197.65	311.92
India	Caustic Soda Lye-Quantity	-	-	-	50
	Caustic Soda Lye-Price	-	-	-	199.54
	% of Quantity export to India as to total exports to World	-	-	-	0.01
World	Caustic Soda Flake-Quantity	23086	21146	59643	147746
	Caustic Soda Flake-Price	308.73	303.01	352.04	303.09
India	Caustic Soda Flake-Quantity	140	-	951	131
	Caustic Soda Flake-Price	274.21	-	357.24	323.19
	% of Quantity export to India as to total exports to World	0.61	-	1.59	0.09

70. It has been observed from the above that the average FOB export price of Chinese Taipei to India of Caustic Soda Flakes has been US\$ 357.24 per MT which is more than the price of export to the World i.e. US\$ 352.04 per MT during POI. There has been no export of Caustic Soda Lye to India during 2005, 2006 and 2007 and during 2008 i.e. post-POI period only 50 MT has been exported to India @ US\$ 199.54/MT.

71. The Authority notes that PT Asahimas, Indonesia produced **** LMT of the subject goods against installed capacity of **** LMT during POI, utilizing their capacity to the extent of 98.02% leaving unutilized capacity to the extent **** LMT only. However, there has been no information about the production of the four other non-cooperative producers/exporters of the subject goods of Indonesia having total approximate production capacity of **** DMT as well as their domestic sales, captive

consumption, exports sales and unutilized capacities and the domestic industry has shown the unutilized capacity of **** MT for Indonesia.

72. The Authority notes that M/s. Formosa, Chinese Taipei against their installed capacity of **** DMT of the subject goods produced **** DMT during POI, utilizing their capacity to the extent of 94.06% leaving unutilized capacity of **** DMT only. However, there has been no information about the production of the four other non-cooperative producers/exporters of the subject goods of Chinese Taipei having total approximate production capacity of **** DMT as well as their domestic sales, captive consumption, exports sales and unutilized capacities and the domestic industry has shown the unutilized capacity of **** MT for Chinese Taipei

73. There has been no information about the production capacity, production, domestic sales, captive consumption, exports sales and unutilized capacities of the non-cooperative producers/exporters of the subject goods of EU (excluding France).

However, the domestic industry has shown the unutilized capacity of **** MT for EU (excluding France).

Likelihood of Continuation of Recurrence of Injury

Submissions by the domestic industry on disclosure statement:

74. The domestic industry has made following submissions on disclosure statement:
- (i) The existence of commission in case of cooperating exporters/producers is beyond the Generally Accepted Accounting Principles and Principles of Bookkeeping/Accounting.
 - (ii) The disclosure statement states that price adjustment are proposed to be made on account of royalty. No adjustments on this account is permissible for the reason that royalty cannot be restricted only to domestic sales. Royalty, if payable, would be payable on all sales, regardless of market.
 - (iii) The company has given information on LMT basis which has been converted into DMT. However, it is not understood how the expenses have been deducted.
 - (iv) In case of Formosa, Taiwan; data available to the petitioner shows import of Flakes only. However, majority of the product is sold in lye form. Determination of dumping margin of Flake is insufficient to establish whether or not exporter is likely to resort to dumping.

- (v) There is no import of lye form from Taiwan. and export of solid form have been made due to which average domestic price of lye and solid form would result in unfair competition. An average of lye & solid price cannot be compared with the price of solid.
- (vi) At the time of mid term review against Taiwan, the Authority had determined that there was no current dumping by the exporter. However, in respect of third country, the dumping margin was 68.93%.
- (vii) The DGAD has placed second part of the questionnaire on its website and it appears that no information on that account have been provided by the exporter and hence exporter be declared as non-cooperative.
- (viii) The fact that dumping margin (or even injury margin) is negative in respect of exporter is insufficient to revoke the current anti dumping duties.
- (ix) Disclosure statement issued clearly establishes dumping and likelihood of dumping and injury in case of Europe.
- (x) There is strong likelihood of dumping by these exporters (Indonesia and Taiwan) in the event of revocation of anti dumping duties. and following are relevant in this regard.
- (xi) The trade data released by the exporting countries show country-wise volume and price of export and significant volume is being exported from these countries to third countries as is evident from the following table:

In POI	Lye	Flake	Total
Indonesia	62,703	10,257	72,960
Taiwan	764,914	58,692	823,606

- (xii) The price at which exports are being made to third countries by Indonesia and Taiwan are far lower than the price at which material has been exported to India.

in POI	Lye	Flake
Indonesia	275.23	357.61
Taiwan	197.65	351.96
India	337.69	424.23

- (xiii) Even if it is assumed that exports to India were not at dumping prices, it is evident that the export price to third countries were significantly at dumping prices.

- (xiv) Both the countries have significant freely disposable unutilized production capacities. revocation of anti dumping duties shall imply likelihood of dumping from these countries

(Volume in Lac MT)	Taiwan	Indonesia	Remark
Capacity	18.23	9.03	CMAI Report
Production	17.18	6.06	CMAI Report
Demand	10.40	6.30	CMAI Report
Exports	7.00	0.30	CMAI Report
Imports	0.15	0.54	CMAI Report
Excess Capacity	7.83	2.73	
Unutilized Capacity	1.05	2.97	

- (xv) Given that the producers are exporting significant volumes to third countries without any contractual obligations, it is clear that export volumes from these countries must be included in “freely available/ disposable production capacities”.

In POI	Lye	Flake	Total
Indonesia	62,703	10,257	72,960
Taiwan	764,914	58,692	823,606

- (xvi) The petitioner visited Formosa website and collected available information. The table below summarizes the position.

Capacity of the company	16.00	Lac MT	Formosa own website
Production of the company	15.53	Lac MT	Formosa own website
Domestic Sales of the company	5.22	Lac MT	Formosa own website
Domestic Sales value ('000 Taiwan Dollar)	5627232		Formosa own website
Average Domestic price	(NT) 10765	USD 327.67 per MT	Calculated from website information (exchange rate .03044 – www.oanda.com)
Export Sales of the company	7.30		Formosa own website
Export value ('000 Taiwan Dollar)	4897067		Formosa own website
Average Export price in Taiwan Dollar	(NT) 6711	USD 204.27 per MT	Calculated from website information (exchange rate .03044 – www.oanda.com)

- (a) It would be seen that the price of Formosa in the domestic market is now in the region of US\$ 327.67 per MT as against prices of US\$ 204.27 per

MT, leading to significant difference [dumping margin] of USD 123.40 per MT (60%).

- (b) The information on company website also establishes that as against production capacity of 16 Lac MT, Formosa's domestic sale is only 5.22 Lac MT; thus leading to significant freely disposable production capacity of about 11 Lac MT. Even if it is assumed that in entire Australian supplies are being made by Formosa under long term contracts, the same still shows excess production and capacity of more than 5 Lac MT.
- (c) During 2008, Taiwan has exported 315822 MT caustic soda to USA at a price of US\$ 200 per MT, (as per US customs data, copy enclosed). This further establishes likelihood of dumping.
- (xvii) "Country of origin for the purpose of the present notification should be a country wherein production activity is undertaken by electrolysis of an aqueous solution of sodium chloride".
- (xviii) It is vital and necessary to express the duty in terms of US\$.
- (xix) It is vital that the anti dumping duties are expressed in terms of fixed amounts.
- (xx) The non-injurious price determined is significantly lower than the non-injurious price that determined by the domestic industry. As the price of lye is suppressed price, the non-injurious price now determined is also suppressed non-injurious price and hence requested to review the non- injurious price.
- (xxi) Petitioner submits that this clearly establishes likelihood of intensified dumping in the event of revocation of anti-dumping duties. Should the present anti-dumping duties be revoked, the exporters would be constrained to sell at prevailing prices, in line with other international suppliers.

Submissions by Interested Parties:

75. **M/s. Formosa Plastic Corporation** has made following submissions on the Disclosure Statement:

- (i) That the Authority must only examine whether the exports are being made at dumped prices as there is no dumping on their part.
- (ii) That they did not export during the last two years and during the Sunset Period of investigations and there is no dumping and injury.
- (iii) That there is no injury or threat to the domestic industry, if any, as claimed by the petition and the injury, if any, is self inflicted.

76. **M/s. Tricon Energy Limited** (exporter) from Indonesia and Taiwan has made the following submissions on the Disclosure Statement:

- (i) That the Authority must only examine whether the exports are being made at dumped prices as there is no dumping on their part.
- (ii) That there is no injury or threat to the domestic industry, if any, as claimed by the petition and the injury, if any, is self inflicted.

77. M/s. P.T. Asahimas, Indonesia has stated that due to negative dumping margin, that the quantum of the injury margin is irrelevant in their case.

78. **M/s. Hindustan Uniliver Limited** has made following submissions on the Disclosure Statement:

- (i) That the Authority must only examine whether the exports are being made at dumped prices as there is no dumping on their part.
- (ii) That there is no injury or threat to the domestic industry, if any, as claimed by the petition and the injury, if any, is self inflicted.

J. Examination by the Authority

J. Examination by the Authority

79. The present investigation is a Sunset Review investigation and the Designated Authority is required to examine whether revocation of duty is likely to lead to continuation or recurrence of dumping and injury. The Authority has taken note of all the issues raised in the disclosure Statement by the Domestic Industry and other interested parties and have been dealt with at appropriate places in the final findings.

- (i) It has been noted that the export from Chinese Taipei by cooperating exporter has been found to be at un-dumped prices during the POI. The Authority has also taken note of the prices as reported in WTA of the product exported from Chinese Taipei. It has been noted that average prices reported by the cooperating producer/exporter for the world exports are either comparable or higher than the reported in the WTA data. M/s. Formosa Plastic Corporation has not exported the goods to India in the preceding years. However, export reported during POI did not show any dumping and prices are comparable with the exports made to other countries.. In view of the aforesaid the Authority has accepted the export prices reported by the cooperating exporter. Concerning the other exports to India by non-cooperating exporter (not accounted for in the export report by the cooperating exporter) it has been noted that it was in form of

Liquid(Lye). In this regard, it has been noted that the dumping margin is also negative for this export. In view of the fact that no exports were reported to be made during the preceding years and WTA export prices to other countries did not show any significant variation except in case of one country, the Authority is of the view that dumping by the cooperating exporter and by other exporters from Chinese Taipei appears to be unlikely though it cannot be ruled out with certainty.

- (ii) In respect of exports from Indonesia, the Authority has taken note of the prices of the product reported in the WTA for exports made from Indonesia to the world and it has been noted that average exports prices by cooperating exporter i.e. M/s/ PT Asahimas Chemical Ltd. were reported lower than that of reported in WTA.(It has also matched with the data reported in the DGCI&S, though no exports have been reported by the cooperating exporter in the preceding years). The cooperating exporter has not reported any exports to India during the preceding years however during the POI major quantity of the exports have been accounted for by the cooperating exporter in the total imports in India. During the POI exports have been made to be at un-dumped price, however, in view of the variation and lower prices by the exporter than the average prices reported in WTA it can not be safely concluded that M/s. PT Asahimas would not resort to dumping in future particularly when M/s. PT Asahimas has exported goods to India only during POI. Therefore, in view of the aforesaid, it appears that the export prices by M/s. PT Asahimas are temporary and unreliable so that the dumping margin during the POI could be avoided though the same is not supported by the pattern of prices by the exporter. In view of the above, the Designated Authority has rejected the export price by the exporter as the likelihood of dumping cannot be ruled out. And hold that there is a likelihood of recurrence of dumping from Indonesia.
- (iii) In respect of the exports from the Europe except France, it has been noted that no exporter from the European Union has cooperated. The dumping margin has been determined on the basis of actual export transactions as reported in IBIS data (though these transactions have not been captured in the DGCI&S data. For determining normal value the data reported in the 'Chlor Alkali' has been relied upon. On the basis of these facts it has been noted that there is significant dumping margin for these transactions indicating that dumping is continuing despite the imposition of anti dumping duty. This indicates that there is likelihood of continuation of dumping from Europe as no other factor has come to notice of the Designated Authority indicating that the dumping may discontinue in case of revocation of anti dumping duty.
- (iv) The state of domestic industry has improved as evident from different economic parameters. However, in case of continuance or recurrence of dumping by the subject countries, the injury may recur.

K. FINAL FINDINGS:

80. For the purpose of assessing present state of injury, 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.

81. Having regard to the contentions raised, information provided 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 and likely dumping and injury and likelihood of continuation or recurrence of dumping and injury, the Authority concludes that:

- (i) The subject goods originating in or exported from Chinese Taipei has been exported to India above its normal value at un-dumped prices and there is no likelihood of recurrence of dumping and consequent injury to the domestic industry.
- (ii) The subjects goods originating in or exported from M/s. PT Asahimas, Indonesia has been exported to India at price above its normal value during POI at un-dumped prices, however prices have been found to be unreliable and there is likelihood of dumping. The exports by other exporters have been found below its normal value resulting in dumping. The continuance or recurring of dumping is likely to cause injury to domestic industry.
- (iii) The subject goods originating or exported from EU(excluding France) have been exported to India below its normal value at dumped prices and continuance or recurring of dumping is likely to cause injury to the domestic industry.

82. The Authority notes that the purpose of anti-dumping duties 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. On the contrary, imposition of anti dumping measures would remove the unfair advantages gained by dumping practice, would prevent the decline of the domestic industry and help to maintain availability of wider choice to the consumers of subject goods. The Authority notes that the imposition of the anti dumping measures would not restrict imports from subject countries in any way, and therefore, would not affect the availability of the products to the consumers. The consumers could still maintain two or even more sources of supply.

L. Recommendations

83. Having concluded that there is likelihood of continuation or recurrence of dumping and injury on account of imports from the subject countries except Chinese Taipei if the duties are revoked, the Authority is of the opinion that the measure is required to be extended in respect of imports from Indonesia and EU(excluding France).

84. Having regard to the lesser duty rule followed by the authority, the Authority recommended imposition of definitive anti-dumping duty equal to the margin of dumping or margin of injury whichever was lesser, so as to remove the injury to the domestic industry in the original investigation as well as in Mid-Term Review on reference price basis. Therefore, the Authority recommends continuation of definitive anti dumping duty, on all imports of subject goods originating in or exported from subject countries, as the difference between the reference price as indicated in Col 9 of the table below and the landed value, in case the landed value at the time of importation is below the value indicated at Col.9.

S. No	Sub-Heading	Description of Goods	Specificati on	Country of Origin	Country of Export	Producer	Exporter	Amount	Unit of Measur ement	Currency
1	2	3	4	5	6	7	8	9	10	11
1.	281511 281512	Caustic soda	Any Grade	Indonesia	Indonesia	M/s. P.T. Asahimas Chemical	M/s. Tricon Energy Ltd, USA	415.46	DMT	USD
2.	-do-	-do-	-do-	Indonesia	Indonesia	Any other than at S.No. 1 above		415.46	-do-	-do-
3.	-do-	-do-	-do-	Indonesia	Any country other than Chinese Taipei and EU (excluding France)	Any	Any	415.46	-do-	-do-
4.	-do-	-do-	-do-	Any country other than Chinese Taipei and EU (excluding France)	Indonesia	Any	Any	415.46	-do-	-do-
5.	-do-	-do-	-do-	EU(excluding France)	EU(excludi ng France)	Any	Any	415.46	-do-	-do-
6.	-do-	-do-	-do-	EU(excluding France)	Any country other than Indonesia and Chinese Taipei	Any	Any	415.46	-do-	-do-
7.	-do-	-do-	-do-	Any country other than Indonesia and Chinese Taipei	EU(excludi ng France)	Any	Any	415.46	-do-	-do-

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

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

(R. Gopalan)
The Designated Authority