

**F. No.15/12/2014-DGAD**  
**GOVERNMENT OF INDIA**  
**MINISTRY OF COMMERCE & INDUSTRY**  
**DEPARTMENT OF COMMERCE**  
**(DIRECTORATE GENERAL OF ANTI-DUMPING & ALLIED DUTIES)**  
4<sup>th</sup> Floor, Jeevan Tara Building, Parliament Street, New Delhi -110001

**NOTIFICATION**

**Date: 8th June 2015**

**(Final Findings)**

**Subject: - Sunset Review investigation in the matter relating to Anti Dumping Duties imposed on imports of Potassium Carbonate originating in or exported from the European Union, Korea RP, China PR and Taiwan (Chinese Taipei)**

**No.15/12/2014-DGAD:-** Whereas, having regard to above Rules, the Designated Authority (hereinafter referred to as Authority) initiated an antidumping investigation in respect of the imports of Potassium Carbonate (hereinafter referred to as subject goods) originating in or exported from European Union, Korea RP, China PR and Taiwan (Chinese Taipei) (hereinafter referred to as subject countries) falling under Sub-heading 2836 40 00 and definitive anti dumping duty was recommended vide Final Findings Notification No 14/42/2002-DGAD dated 16th January, 2004. On the basis of the said findings, the Central Government imposed definitive anti-dumping duties on the subject goods imported from subject countries vide Notification No 37/2004 dated 20th February, 2004. Subsequently, the Authority conducted a sunset review investigation and recommended extension of anti-dumping duty vide Notification 15/4/2008-DGAD dated 20th May, 2009. The duty was extended vide Notification No. 61/2009-Customs dated 10th June, 2009.

2. Whereas, in terms of the Act and the Rules, the antidumping duty imposed shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition.
3. And, notwithstanding the above provision, the Authority is required to review, on the basis of a duly substantial request made by or on behalf of the domestic industry within a reasonable period of time prior to the date of the expiry of the measure, as to whether the expiry of duty is likely to lead to continuation or recurrence of dumping and injury.
4. And whereas M/s Gujarat Alkalies & Chemicals Ltd, approached the Authority with an application requesting for sunset review of the definitive anti-dumping duty earlier imposed vide Ministry of Finance Notification No. 61/2009-Customs dated 10th June, 2009 on the imports of the subject goods originating in or exported from the subject countries and seeking the continuation of anti-dumping duty on the grounds that cessation of anti dumping duty is likely to lead to continuation or recurrence of dumping and injury.

5. Having satisfied that the petitioners have substantiated the need for a review, the Designated Authority considered it appropriate to initiate sunset review vide notification no. 15/12/2014-DGAD dated 9th June, 2014. The validity of the antidumping duty on the imports of the subject goods from the subject countries was extended up to 9<sup>th</sup> June 2015 by the Central Government vide Notification No. 34/2014-Customs (ADD) dated 23rd July, 2014.
6. The scope of the present review covers all aspects of the previous investigations concerning imports of the subject goods, originating in or exported from the subject countries.

**A. PROCEDURE**

7. The procedure described below has been followed in this investigation:
  - i) The Authority notified the embassies of the subject countries in India about the receipt of application alleging dumping of the subject goods originating in or exported from the subject countries before proceeding to initiate the investigation in accordance with the Anti-dumping Rules.
  - ii) The Authority issued a Notification No. 15/12/2014-DGAD dated 9th June, 2014, published in the Gazette of India, Extraordinary, initiating sunset review anti dumping investigation concerning imports of the subject goods, originating in or exported from the subject countries.
  - iii) The Authority forwarded a letter along with copy of the public notice to all the known exporters and other interested parties/industry associations (whose details were made available by the domestic industry) in the subject countries and gave them opportunity to make their views known in writing within the prescribed time limits in accordance with the anti-dumping rules.
  - iv) The Authority provided a copy of the non-confidential version of the application to the known exporters of the subject countries in accordance with the Anti-dumping Rules. A copy of the application was also made available to other interested parties, upon request.
  - v) Copies of the letter and the exporter questionnaires sent to the exporters/producers in the subject countries were also sent to the embassy of the subject countries in India along with a list of known exporters / producers with a request to advise the known exporters / producers from the subject countries as also other exporters / producers from the subject countries to respond to the questionnaires within the prescribed time limits.
  - vi) The Authority sent exporter's questionnaires to elicit relevant information to the following known exporters in the subject countries in accordance with the Anti-dumping Rules:
  - vii) The Authority sent exporter questionnaires, to elicit relevant information, to the following known exporters from the subject countries:

1. Evonik Industries AG, Germany
2. Dr. Paul Lohman GmbH KG, Germany
3. Merck KGaA, Germany
4. Creanova Spezialchemie GmbH, Germany
5. Taiwan Paper and Pulp Corporation, Taiwan
6. Green Mountain Company Ltd., Taiwan
7. Gremont Chemical Co. Ltd., Taiwan
8. Jiande Dayang Chemical Manufacture Ltd (Jiande), China
9. Panjin Fertilizer Plant Fertilizer Factory, China
10. Chengdu Chemical Co. Ltd.(CCL), China
11. Henan chinaoriginator trading Co. Ltd., China
12. Unid Co Ltd, Korea

viii) Exporters /Producers namely, M/s UNID Co. Ltd, Korea RP, M/s Taiwan Paper and Pulp Corporation, Taiwan and M/s Potasse ET Produits Chimiques, France have filed responses.

ix) The Authority forwarded a copy of the public notice to the following known importers/consumers (whose names and addresses were made available to the Authority) of subject goods in India and advised them to make their views known in writing within the prescribed time limit in accordance with the Rule 6(4):

1. Aurbindo Pharma Limited, Hyderabad, Andhra Pradesh
2. Videocon International Limited, Mumbai, Maharashtra
3. Videocon Industries Limited, Videocon, Gujarat
4. Tanfac Industries Limited, Chennai, Tamil Nadu
5. Vorin Laboratories Limited, Secunderabad, Hyderabad, Andhra Pradesh
6. Gujarat Insecticides Limited, Ankleshwar, Gujarat
7. Ici India Ltd, Chennai, Tamil Nadu
8. Aarti Drugs Limited, Mumbai, Maharashtra
9. KDL Biotech Limited, Mumbai, Maharashtra
10. Bharat Jyoti, Mumbai, Maharashtra
11. NOCIL LIMITED, Mumbai, Maharashtra
12. Bakul Pharma, Mumbai, Maharashtra
13. Bio Chemical Synthetic Product, Hyderabad, Andhra Pradesh
14. Glochem Industries Ltd, Hyderabad, Andhra Pradesh
15. Assam Petrochemicals Limited, Guwahati, Assam
16. Meck Lubricant and Petrochemicals Private Limited, Ahmadabad, Gujarat
17. Baker Hughes Singapore PTE head Office, Mumbai, Maharashtra
18. Keerthi Company, Bangalore, Karnataka
19. MFPL Fluorine Products Limited, Chennai, Tamil Nadu
20. Max Asotech Limited, Gurgaon, Haryana
21. Ranbaxy Labs, New Delhi
22. Amoli Organics, Mumbai, Maharashtra

23. Khushbu Chemicals, Mumbai, Maharashtra
24. Recon Limited, Bangalore, Karnataka
25. SD Fine Chem Limited, Mumbai, Maharashtra
26. Westman Chemical Pvt. Ltd., Mumbai, Maharashtra
27. Bayer India Chemicals Pvt. Ltd., Chennai, Tamil Nadu
28. Dr. Reddy's Laboratories Limited, Hyderabad, Andhra Pradesh
29. CJ Shah and Company, Mumbai, Maharashtra
30. Tribology India Limited, Chennai, Tamil Nadu

- x) The period of investigation for the purpose of the present review is 1<sup>st</sup> April, 2013 to 31<sup>st</sup> March, 2014 (12 months). However, injury analysis covered the years 2010-11, 2011-12, 2012-13 and the POI.
- xi) Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of imports of subject goods for the past three years, and the period of investigation. The import information was obtained from DGCI&S. Since volume of imports as reported by the responding exporter is higher than the DGCI&S data and Korean Custom Data, the responding exporters' data has been considered for the investigation.
- xii) The Authority made available non-confidential version of the evidence presented by interested parties in the form of a public file kept open for inspection by the interested parties as per Rule 6(7).
- xiii) In accordance with Rule 6(6) of the AD Rules, the Authority also provided opportunity to all interested parties to present their views orally in a public hearing held on 8<sup>th</sup> January, 2015.
- xiv) The parties presenting their views in the oral hearing were requested to file written submissions of the views expressed orally. The submissions made by the interested parties during the course of the investigation and the oral hearing, have been addressed in this Disclosure Statement, to the extent considered relevant by the Authority.
- xv) The Authority has examined the information furnished by the domestic producer to the extent possible on the basis of guidelines laid down in Annexure III to work out the cost of production and the non-injurious price of the subject goods in India so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.
- xvi) Verification of the information and data submitted by the responding exporter and the applicant was carried out to the extent deemed necessary.
- xvii) Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to other

interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.

- xviii) Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has treated such parties as non-cooperative and recorded its Final finding on the basis of the 'facts available' .
- xix) A Disclosure Statement containing the essential facts in this investigation which has formed the basis of the Final Findings was issued to the interested parties on 25.05.2015. The post Disclosure Statement submissions were received from the Domestic Industry only and the same have been considered, to the extent found relevant in this Final Findings Notification.
- xx) The submissions made by the interested parties considered relevant by the Authority have been addressed in this Final Findings Notification.
- xxi) The exchange rate for the POI has been taken by the Authority as Rs.60.85 = 1 US\$.
- xxii) \*\*\* in the Final Finding Notification represents information furnished by interested parties on confidential basis and so considered by the Authority under the Rules.

#### **B. SCOPE OF THE PRODUCT UNDER CONSIDERATION AND 'LIKE ARTICLE'**

- 8. The product under consideration is "Potassium Carbonate". Potassium Carbonate is a white, deliquescent inorganic compound, available in powder and granules form, soluble in water and insoluble in alcohol, having chemical formula  $K_2CO_3$  and having an ITC (HS) code 2836 40 00.
- 9. The petitioner has further claimed that the goods produced by the domestic industry are like article to the imported product in terms of parameters such as physical & technical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification. The two are technically and commercially substitutable.
- 10. Potassium Carbonate is used primarily in manufacturing of TV Picture Tubes, GLS Lamp & Ophthalmic Glasses, Fertilizer Industry, Rubber Industry, Pesticide industry, Drug & Pharmaceuticals, Dyes and Potassium based chemical industries.

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

- 11. The present petition is for sunset review of the anti dumping duty earlier imposed. The previous findings do not show any issue with regard to product under consideration. The present investigation being a sunset review investigation of anti- dumping duties in force, the Authority considers that the scope of the product under consideration in the present investigation remains the same as that of the original investigation. Moreover, none of the interested parties have made any relevant submission requesting modification (including curtailment) in the scope of the review.

12. After examination, the authority concludes that the subject goods produced by the domestic industry are like article to that imported from the subject countries.

### **C. DOMESTIC INDUSTRY AND STANDING**

#### **13. Submissions by the Domestic Industry**

- i. The present petition has been filed by Gujarat Alkalies & Chemicals Ltd. which constitutes domestic industry of the product under consideration in India.
- ii. There are two other known producers of Potassium Carbonate in India, apart from the petitioner, viz. The Andhra Sugars Limited and Sree Rayalaseema Alkalies & Allied Chemicals Ltd. Annual Report of Sree Rayalaseema shows capacity for the product under consideration, but, no production. Further, it shows potassium carbonate under the head raw materials, along with potassium chloride. Therefore, it is considered that Sree Rayalaseema has not produced product under consideration for sale in the market. DI has given information about M/s The Andhra Sugars Limited that they are also producing and selling the PUC but to the extent of 26% of total sale of Indian production..
- iii. The production of petitioner constitutes a major proportion of total domestic production of subject goods in India. Thus, the present petition satisfies the standing requirement under the Rules to file the present petition and petitioner constitutes 'domestic industry'
- iv. Present petition is for sunset review. This being sunset review investigation, the Authority is not required to ascertain standing of the petitioner to file the present petition.

#### **Views of the opposing Interested Parties –**

14. None of the interested parties have made submissions with regard to scope of the Domestic Industry and Standing.

#### **Examination by Authority**

15. The application was filed by Gujarat Alkalies & Chemicals Ltd. It is noted there are two other known producers of the subject goods in India, apart from the petitioner, viz., Andhra Sugars Limited and Sree Rayalaseema Alkalies & Allied Chemicals Ltd. It is noted from the evidence submitted by the petitioner that M/s Sree Rayalaseema Alkalies & Allied Chemicals Ltd does not produce goods for domestic sales. Further, data furnished by the petitioner shows that even if known capacity of M/s Sree Rayalaseema Alkalies & Allied Chemicals Ltd is considered as its domestic production, the production of petitioner would still constitute 74% of total domestic production of subject goods in India. The petitioner therefore satisfies the requirement of standing to file the present petition and constitutes 'Domestic Industry' within the meaning of the AD Rules.

## **D. Assessment of Dumping – Methodology and Parameters**

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

#### **Normal Value**

16. Under Section 9A(1)(c), normal value in relation to an article means:

*(i) the comparable price, in the ordinary course of trade, for the like article when meant for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6); or*

*(ii) when there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either-*

*(a) comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country as determined in accordance with the rules made under sub-section (6); or*

*(b) the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6):*

*Provided that in the case of import of the article from a country other than the country of origin and where the article has been merely transshipped through the country of export or such article is not produced in the country of export or there is no comparable price in the country of export, the normal value shall be determined with reference to its price in the country of origin.*

#### **Normal Value For China PR**

##### **Submissions by the domestic industry**

17. It has been contended by the domestic industry that China PR should be treated as non-market economy country, *inter alia*, stating that:

i. Market economy status cannot be given in a situation where one of the major shareholders is a State owned/controlled entity – The Designated Authority and the EC has consistently held that possibilities of State interference cannot be ruled out in such cases. It is being held that it is not only the question of past interferences alone, but also possibilities of potential State interference in the future after the imposition of anti dumping duties that is relevant to market economy treatment.

- ii. Market economy status cannot be given unless the responding Chinese exporters establish that the prices of major inputs substantially reflect market values – “substantially reflect market values” has been widely interpreted to mean that the price of these inputs must be comparable to the prices prevailing in the international market. The fact that such prices are comparable to the price prevailing in China is grossly insufficient.
- iii. Market economy status cannot be given unless the responding exporter establish that their books are audited in line with international accounting standards – market economy treatment must be rejected in such situations where Chinese exporters are unable to establish that their books are consistent with International Accounting Standards (IAS). The requirement on insisting compliance with International Accounting Standards is to ensure accuracy and adequacy of revenues and expenses, assets and liabilities expressed in the annual report.
- iv. Market economy status cannot be granted even if one of the parameters is not satisfied – market economy status cannot be granted unless the responding Chinese exporters pass the test in respect of each and every parameter laid down under the rules. This situation is just the opposite of the test required for material injury. It is well acknowledged position that a positive finding of injury can be recorded even if one single parameter established injury. Thus, while one parameter is sufficient to establish existence of injury, failure to pass one single parameter is sufficient to reject the claim of market economy status.
- v. Onus/obligations – it is not for the Authority to establish that the Chinese companies are indeed operating under market economy environment and is entitled for market economy treatment. On the contrary, it is for the Chinese exporters to establish that they are operating under market economy conditions.
- vi. Response from group as a whole – Market economy status cannot be granted unless the responding company and its group as a whole make the claim. If one or more companies forming part of the group have not filed the response, market economy status must be rejected.
- vii. Transformation – In a situation where the current shareholders have not set up their production facilities themselves but have acquired the same from some other party, market economy status cannot be granted unless process of transformation has been completely established through documentary evidence.

### **Examination by the Authority**

- 18. The Authority notes that China PR has been treated as a non-market economy country in anti-dumping investigations by India and other WTO Members subject to rebuttal of the presumption by the exporting country or individual exporters/producers in terms of the AD Rules.
- 19. As per Paragraph 8 of Annexure I of the AD Rules, the presumption of a non-market economy may be rebutted, if the exporter(s) /producer(s) from China PR provide

information and sufficient evidence on the basis of the criteria specified in sub paragraph (3) of Paragraph 8 and establish the facts to the contrary. The co-operating exporters/producers of the subject goods from People's Republic of China are required to furnish necessary information/ sufficient evidence as mentioned in sub-paragraph (3) of paragraph 8 in response to the Market Economy Treatment questionnaire to enable the Authority to consider the following criteria as to whether:-

- i. the decisions of concerned firms in China PR regarding prices, costs and inputs, including raw materials, cost of technology and labour, output, sales and investment are made in response to market signals reflecting supply and demand and without significant State interference in this regard, and whether costs of major inputs substantially reflect market values;
- ii. the production costs and financial situation of such firms are subject to significant distortions carried over from the former non-market economy system, in particular in relation to depreciation of assets, other write-offs, barter trade and payment via compensation of debts;
- iii. such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms and
- iv. The exchange rate conversions are carried out at the market rate.

20. The Authority notes that consequent upon the initiation notice issued by the Authority; none of the Chinese exporters/producers has submitted the questionnaires' responses or the market economy questionnaire's response and sought to rebut the non-market economy presumption. Since none of the Chinese companies have filed MET questionnaire response or claimed market economy treatment, Petitioner has proposed India as surrogate country. No comments have been filed by any party opposing claim of the petitioner. The Authority therefore determined the normal value on the basis of other reasonable method as per Rules. The Normal Value as worked out by the Authority is given in the Dumping Margin Table below.

### **Normal Value For European Union, Korea RP And Taiwan:**

#### **Submissions by the domestic industry**

21. Following are submissions of domestic industry on normal value:

- i. Efforts were made to get evidence of price of product concerned in the domestic markets of European Union, Korea RP and Taiwan (Chinese Taipei). Efforts were also made to get any evidence of price from published sources. There is no publication which provides prices of the product under consideration in European Union, Korea RP and Taiwan.
- ii. The product prices are not publicly available as the prices are transacted between the producer and consumers and therefore the same are not in public domain. In view of the same, the Petitioner has determined normal value for the abovementioned countries on the basis of estimates of cost of production based on

- best available information, with addition of selling, general and administrative expenses.
- iii. Potassium chloride is the raw material used for production of caustic potash from which Potassium Carbonate is produced. Petitioner has taken prices of potassium chloride from import price of specific grade of potassium chloride which is used in production of caustic potash and then potassium carbonate. The price of potassium carbonate has been constructed on this basis considering all other expenses as per petitioner's cost of manufacturing potassium carbonate with a reasonable profit of 5%.
  - iv. Export price has been determined on the basis of weighted average price of imports of all known imports into India. These prices are assessable values of imports
  - v. The dumping margins for the subject countries (except for EU) are significant and above de minimis levels.
  - vi. As regards the dumping margin, most critical issue is the cost of production of the PUC, for which vital question is valuation of captive input. The answer given by the responding exporter is with regard to raw material of caustic potash which is a distinct product, having significant market globally. The petitioner in fact is selling a very large portion (in fact, majority portion) in the market.
  - vii. The exporter has tried to escape the question on transaction wise details of exports of PUC to third country markets, i.e., markets other than India.

### **Normal Value For Korea RP**

#### **Normal Value for M/s UNID Co. Ltd.**

22. UNID Co filed a questionnaire response containing details of the domestic as well as exports sales of the subject goods manufactured and sold by them. For computation of Normal Value, the domestic sales of the subject goods were considered based on the verified data in Appendix -1. It was stated that 100% of the subject goods has been sold to the non-affiliated parties in the domestic market by the company. It was verified that 100% of the domestic sales are profitable sales and the same have been considered for the purpose of determining the Normal Value. Adjustments namely Freight Expenses, Credit Expenses, and Packing Expenses as claimed were allowed by the Authority. The Normal Value at ex-factory level as worked out by the Authority taking into consideration the above factors is as in the Dumping Margin Table below.

#### **Normal Value for all other exporters from Korea RP**

23. The Authority notes that no other exporter/producer from Korea RP has responded to the Authority in the present investigation. The Authority, therefore, adopted the normal value determined for the cooperating exporter from Korea RP, for all other exporters from Korea as well.

**Normal Value For Taiwan (Chinese Taipei)**

24. M/s Taiwan Pulp and Paper Corporation have submitted questionnaire response along with some data. The same was seen and they were informed vide email dated 09/01/2015 to submit complete information. In their letter sent by mail on 07/01/2015 they had regretted attendance from oral hearing and stated that anti-dumping duty has continued for a long time on this product and it should be withdrawn without further extension. As their questionnaire response and the data submitted is incomplete, authority decided to reject the response.
25. The Authority further notes that in the absence of any response from any other producer from Taiwan in the form and manner prescribed, the normal value cannot be determined on the basis of questionnaire response of a producer in the Taiwan. The Authority has relied upon best available information for determination of Normal Value. The petitioners claimed that efforts were made by them to get any information about the price at which subject goods were being traded in the domestic market of Taiwan. Efforts were also made to get any other reasonable evidence of price of the subject goods prevailing in Taiwan. Petitioners have not been able to get evidence of prices of the subject goods in the domestic market of Taiwan. The normal value is, therefore, has been determined taking constructed value approach. The Normal Value as worked out by the Authority is given in the Dumping Margin Table below.

**Normal Value For EU**

26. M/s Potasse ET Produits Chimiques, France has provided questionnaire response along with some data. The same was seen and they were informed of the deficiencies vide email dated 27/01/2015. The documents were examined and they were requested to give further information vide email dated 03/03/2015. They responded vide their email dated 17/04/2015 attaching part data and also sent some documents by courier. The documents were examined and it was noted that they have not disclosed complete information. As the response is still incomplete, their response has been rejected.
27. The Authority further notes that in the absence of proper response from any other producer from EU in the form and manner prescribed, the normal value cannot be determined on the basis of questionnaire response of a producer in the EU. The Authority has relied upon best available information for determination of Normal Value. The petitioners claimed that efforts were made by them to get any information about the price at which subject goods were being traded in the domestic market of EU. Efforts were also made to get any other reasonable evidence of price of the subject goods prevailing in EU. Petitioners have not been able to get evidence of prices of the subject goods in the domestic market of EU. The Authority therefore, determined the normal value on the basis of other reasonable method

as per Rules. The Normal Value as worked out by the Authority is given in the Dumping Margin Table below.

**Export Price For Korea RP**

**Export Price for UNID Co., Ltd., Korea RP.**

28. UNID Co. filed a questionnaire response containing details of the domestic as well as exports sales of the subject goods manufactured and sold by them. The export price has been determined based on the data in Appendix-2. After allowing the adjustments as claimed namely Inland Freight, Ocean freight, Credit Expenses, Bank Charges, Overseas Insurance, Customs Agent Fee, Commissions, duty drawback and Packing Expenses, the export price at ex-factory level as worked out by the Authority is given in the Dumping Margin Table below.

**All Other Exporters from Korea RP**

29. In respect of all other exporters from Korea RP who are treated to be non-cooperative, the Authority to determined their net export price as per facts available in terms of Rule 6(8) of the Rules.

**Export Price for EU, Taiwan And China**

30. None of the Exporters from China submitted any response. Exporter from EU (France) and Taiwan submitted response but with incomplete data; the Authority has determined the export prices as per facts available in terms of Rule 6(8) of the Anti Dumping Rules. Data has been collated as per the best available information. The data for analysis was sourced from DGCI&S and was adjusted for Inland Freight, Ocean freight, Bank Charges, Overseas Insurance, Customs Agent Fee, Commission to arrive at net export price.

**DUMPING MARGIN**

31. The normal values determined at the ex-factory level have been compared with the respective net export prices determined at the ex-factory level to determine the dumping margins. The dumping margins are as follows:

**Dumping Margin Table**

S.No	Channel of export	Name of Producer	Exporter	Normal value US/MT	Export price US\$/MT	Dumping margin US\$/MT	Dumping margin %	Dumping margin Range%
1	Korea RP	UNID Co., Ltd., Korea RP	UNID Co., Ltd., Korea RP	***	***	***	***	(0 – 10)
2	Korea RP	All other Producers	All other exporters	***	***	***	***	15-25
3	EU	All Producers	All exporters	***	***	***	***	(40-60)
4	China PR	All Producers	All exporters	***	***	***	***	(10 – 20)
5	Taiwan (Chinese Taipei)	All Producers	All exporters	***	***	***	***	20-30

The dumping margins determined for the imports from Korea RP (except UNID Co) and Taiwan are significantly above de-minimis.

## **E. INJURY DETERMINATION AND EXAMINATION OF INJURY AND CAUSAL LINK**

### **Submissions by the opposing interested parties**

32. The views of opposing interested parties with respect to injury and causal link are as follows:
- i. All injury parameters claimed are contrary to claims made in Proforma IV-A
  - ii. For sake of getting a sunset review investigation initiated, the domestic industry has deliberately provided wrong and incomplete information and later on supplemented with the same Proforma IV-A enclosed with the petition for the period of investigation.
  - iii. Cost of sales have increased by 31% whereas during the same period of sales realization has increased by 74%.
  - iv. Domestic industry has been earning good profits during the period of investigation. There is no price effect on the Domestic Industry.
  - v. Domestic industry has earned more than 22% ROCE, it is clear indication that domestic industry has not been adversely affected by imports from Korea.
  - vi. Even though it has been claimed the there is negligible price undercutting, the domestic industry could not establish that price undercutting is causing injury to the domestic industry. Furthermore, claims of price undercutting by imports are wrong.
  - vii. Claims of dumping are baseless – not based on facts but on hypothetical assumptions.

- viii. Positive trends in sales realization and profitability of the domestic industry have continued beyond the period of investigation too. Accordingly, there is no likelihood of dumping and injury.

**Submissions by the Domestic Industry**

33. The domestic industry, in its submissions, has inter-alia argued as follows:

- i. Demand demand/consumption has increased over the injury period.
- ii. Imports from subject countries have remained significant and have in fact increased throughout the injury period. Further, average import prices of subject goods from subject countries (barring EU) have remained lower than the selling price of the domestic industry.
- iii. Imports have increased significantly since the base year of the original investigation. The increase is much more than the increase in demand, which is an unusual situation given the circumstance that anti dumping duties has been in place.
- iv. Landed price of imports has remained below the level of cost of sale and selling price since 2012-13. Thus imports are likely to cause price suppression.
- v. The domestic industry has maintained the same capacity throughout the injury period. Production, capacity utilization and domestic sales of the domestic industry have declined over the injury period despite increase in demand and imposition of anti dumping duty.
- vi. The cost of sales as well as the selling price of the domestic industry increased over the injury period. April 13 - Sept 13 was an aberrational period; therefore the POI would not show the actual injury being suffered by the domestic industry.
- vii. Analysis of post POI period shows that cost of sales has further increased however selling price has declined leading to losses being suffered by the domestic industry in this period.
- viii. Due to low prices and huge volumes of dumped imports, the sizeable part of market share has been seized by imports from subject countries. Further, despite capacities and demand, market share of the domestic industry has remained very low and the share of dumped imports has increased
- ix. Productivity per day of the domestic industry has declined throughout the injury period in consonance with consistent decline in production of the domestic industry.
- x. The inventory level with the domestic industry has remained significant throughout the injury period.
- xi. The impact of dumping on the domestic industry is significant.
- xii. The NIP and injury margin is required to be determined after considering captive input at market price.
- xiii. The period April 13 – Sept 13 is highly aberrational period as there was extreme shortage of supply of raw material of the product under consideration, i.e. potassium chloride in the period from April 13 to Sept 13 in the global market which led to the

decline in the production of the product under consideration. This also led to significant increase in the prices of the product under consideration. Despite having a favorable market condition, the petitioner was compelled to reduce its production.

**Examination by the Authority**

34. The Authority has considered various arguments put forth by various interested parties 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.

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

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

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

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

36. For the examination of the impact of imports on the domestic industry in India, the Authority has considered such indices having a bearing on the state of the industry as production, capacity utilization, sales quantum, stock, profitability, net sales realization, the magnitude and margin of dumping etc. in accordance with Annexure II(iv) of the Rules supra.
37. The present investigation is a sunset review of anti dumping duties in force. Rule 23 provides that provisions of Rule 11 shall apply on mutatis mutandis basis in case of a review as well. The Authority has, therefore, determined injury to the domestic industry considering, mutatis mutandis, the provisions of Rule 11 read with Annexure II. Further, since anti dumping duties are in force on imports of the product under consideration, the Authority considers that the fact of existing anti dumping duties on imports of the product from subject countries is required to be considered while examining injury to the domestic industry. The Authority has examined whether existing measure is necessary to counteract the dumping causing injury.
38. According to Section 9(A)(5) of the Customs Tariff Act, anti-dumping duty imposed 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, in which case, the Central Govt. 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.
39. For the purpose of current 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.
40. The Authority has considered the views of all the interested parties to the extent found relevant to the present investigation and addressed the same appropriately. The Authority has analyzed injury parameters in accordance with the Rules. 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 treated 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. Accordingly, the volume and price effect of dumped imports have been examined as follows:

## F. VOLUME EFFECT

### Volume Effect of dumped imports and Impact on domestic Industry

41. The effects of the volume of dumped imports from the subject countries as well as imports from other countries have been examined by the Authority as follows:

#### Demand and Market Share

42. For the purpose of determining the demand and market share, the Authority has considered sales of the Indian producers and imports from various sources. The demand of the product in India has been computed as the sum of domestic sales of the Indian Producers and known imports from various countries. The demand so assessed is shown in the following table:

Particulars	Unit	2010-11	2011-12	2012-13	POI
Sales of Domestic Industry	MT	11,494	9,841	6,999	6,222
Sales of Other Indian Producers	MT	2,005	2,005	2,206	2,206
Subject Countries	MT	7944	9123	11403	11754
Other Countries	MT	5,397	7,794	6,537	7315
Demand/Consumption	MT	26,840	28,764	27,145	27,497
<b>Market Share in demand</b>					
Sales of Domestic Industry	%	42.82	34.21	25.78	22.63
Sales of Other Indian Producers	%	7.47	6.97	8.13	8.02
Subject Countries	%	29.60	31.72	42.01	42.75
Other Countries	%	20.11	27.10	24.08	26.60

43. It is noted that the apparent consumption of the subject goods have remained more or less consistent over the injury period except 2012-13. Market share of imports from subject countries have increased over the injury period.

#### Import volumes and share of subject countries:

44. With regard to volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in dumped imports either in absolute terms or relative to production or consumption in India. 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 significant increase in the dumped imports either in absolute terms or relative in production or consumption in India”*

45. The import volumes for the injury period, considering the data provided by DGCI&S and the responding exporter are as under:

Particulars	Unit	2010-11	2011-12	2012-13	POI
Taiwan	MT	-	-	240	680
Korea	MT	6321	7834	9103	9675
China	MT	186	-	20	150
EU	MT	1437	1289	2280	1929
Total Subject countries	MT	7944	9123	11403	11754
Other Countries	MT	5,397	7,794	6,537	7315
Total Imports	MT	13,341	16,917	17,940	19,069

46. It is seen that the imports from subject countries have remained significant and have in fact increased throughout the injury period. Volume of imports has increased in absolute terms and as well as in relation to consumption in India despite existence of anti dumping duties.

### **Market share in Demand**

47. The effects of the dumped imports on the domestic sales and the market share of the domestic industry have been as below:

Market Share in Demand	Unit	2010-11	2011-12	2012-13	POI
Domestic Industry	%	42.82	34.21	25.78	22.63
Other Producers	%	7.47	6.97	8.13	8.02
Subject Countries Imports	%	29.60	31.72	42.01	42.75
Other Countries imports	%	20.11	27.10	24.08	26.60
Total	%	100.00	100.00	100.00	100.00

48. It is noted that market share of the domestic industry has declined whereas share of imports from subject countries has increased significantly over the injury period.

## **G. PRICE EFFECT**

### **Price Effect of the Dumped imports on the Domestic Industry**

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

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

50. The impact of dumped imports on the prices of the domestic industry has been examined with reference to the price undercutting, price underselling, price suppression and price depression, if any. For the purpose of this analysis, weighted average cost of production, weighted average Net Sales Realization (NSR) and weighted average Non-Injurious Price (NIP) of the domestic industry have been compared with the landed cost of imports from the subject countries.

**Price undercutting and price underselling**

**a) Taiwan**

	Unit	2010-11	2011-12	2012-13	POI
Landed price of imports	Rs./MT	***	***	***	***
Net Sales Realisation	Rs./MT	***	***	***	***
Price Undercutting	Rs./MT	***	***	***	***
Price Undercutting (%)	%	***	***	***	***

**b) EU**

	Unit	2010-11	2011-12	2012-13	POI
Landed price of imports	Rs./MT	***	***	***	***
Net Sales Realisation	Rs./MT	***	***	***	***
Price Undercutting	Rs./MT	***	***	***	***
Price Undercutting (%)	%	***	***	***	***

**c) China PR**

	Unit	2010-11	2011-12	2012-13	POI
Landed price of imports	Rs./MT	***	***	***	***
Net Sales Realisation	Rs./MT	***	***	***	***
Price Undercutting	Rs./MT	***	***	***	***
Price Undercutting (%)	%	***	***	***	***

**d) Korea RP**

	Unit	2010-11	2011-12	2012-13	POI
Landed price of imports	Rs./MT	***	***	***	***
Net Sales Realisation	Rs./MT	***	***	***	***
Price Undercutting	Rs./MT	***	***	***	***
Price Undercutting (%)	%	***	***	***	***

**Price underselling for POI**

Particulars	Unit	EU	China PR	Taiwan	Korea RP
Non Injurious Price	\$/MT	***	***	***	***
Landed Price	\$/MT	***	***	***	***
Price underselling	\$/MT	***	***	***	***
Price underselling	%	***	***	***	***
Price underselling %	Range	(60-70)	(30-40)	15-25	(10-20)

**Price Suppression and Depression**

Particulars	Unit	2010-11	2011-12	2012-13	POI
Cost of Sales	Rs/MT	***	***	***	***
Index		***	***	***	***
Selling Price	Rs/MT	***	***	***	***
Index		100	117	147	174

51. In this regard, the Authority notes as under:

- a. That the price undercutting during POI is positive for Taiwan and Korea.
- b. The landed price of imports from China and EU has remained above the selling price of the domestic industry.

- c. That both cost of production and selling price has increased over the injury period and the increase in selling price is significant. It is thus evident that the imports were not suppressing/depressing the prices of the domestic industry in the market.

## **H. EXAMINATION OF ECONOMIC PARAMETERS RELATING TO THE DOMESTIC INDUSTRY**

52. Annexure II to the AD Rules requires that a determination of injury shall involve an objective examination of the consequent impact of these imports on domestic producers of such products. With regard to consequent impact of these imports on domestic producers of such products, the 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. However, the present investigation being a sunset review investigation, injury to the domestic industry is required to be assessed on mutatis mutandis basis. Further, the Authority has examined whether existing measure has been sufficient to counteract the dumping which is causing injury. The various injury parameters relating to the domestic industry are discussed below.

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

53. The performance of the domestic industry in respect of sales, capacity, production, and capacity utilization has been as follows:

<b>Particulars</b>	<b>Unit</b>	<b>2010-11</b>	<b>2011-12</b>	<b>2012-13</b>	<b>POI</b>
Capacity	MT	13,200	13,200	13,200	13,200
Production	MT	11,918	10,536	6,464	6,987
Capacity Utilization	%	90	80	49	53
<b>Sales volume</b>					
Domestic	MT	11,494	9,841	6,999	6,222
Exports	MT	702	221	251	157

54. It is seen that:
- The domestic industry maintained the same capacity throughout the injury period.
  - Production, capacity utilization and domestic sales of the domestic industry have declined till 2012-13 and marginally increased in POI.

### **Profits, Return on Investment and Cash Flow**

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

Particulars	Unit	2010-11	2011-12	2012-13	POI
Cost of sales	Rs./MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	104	145	131
Selling price	Rs./MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	117	147	174
Profit/Loss	Rs./MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	-100	3,430	147	10,898
Profit/Loss	Rs.Lacs	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	-100	2,924	90	5,876
PBIT	Rs.Lacs	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	2,717	108	5,163
Cash Profit	Rs.Lacs	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	7,763	288	15,475
ROI	%	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	2,541	105	5,502

56. It is seen that:

- Cost of sales increased up to 2012-13, but declined in the POI.
- Selling price of the domestic industry has increased over the injury period.
- Domestic industry was earlier suffering losses in 2010-11, but started earning profits in 2011-12, which increased thereafter up to POI. Petitioner submitted that profits of the company are mostly profits in sale of caustic potash (KOH), which is an intermediate raw material for PUC but which has its own independent market also. Petitioner explained that there was shortage of supply of potassium chloride (one of the basic raw materials) in the global market during part of the POI i.e. from April '13 to Sept '13 which led to increase in the prices of caustic potash. Petitioner submits that there is decline in production of the product under consideration because imports are being made at a price which do not support KOH price. Though prices of PUC increased but petitioner was compelled to reduce its production in view of non-remunerative price of the product under consideration, considering the price of KOH, the intermediate raw material, was more remunerative in the market.
- Profitability of the domestic industry has increased over the injury period. Resultantly, cash profit and return on investment have increased over the injury period with the increase in profitability.

**Inventories**

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

Particulars	Unit	2010-11	2011-12	2012-13	POI
Opening stock	MT	***	***	***	***
Closing Stock	MT	***	***	***	***
Average Stock	MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	117	90	74

58. It is seen that inventories with the Domestic Industry have declined over the injury period.

**Employment and wages**

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

Particulars	Unit	2010-11	2011-12	2012-13	POI
Number of employees	No.	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	114	127	127
Wages	Rs. Lacs	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	84	84	103

59. Analysis of the data given in the above table indicates that the number of workers have increased along with the wages during the POI.

**Productivity**

Data relating to productivity shows as follows:

Particulars	Unit	2010-11	2011-12	2012-13	POI
Productivity per day	MT/day	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	88	53	59
Productivity per employee	No.	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	107	132	118

60. It is noted from the above table that productivity of the domestic industry has declined throughout the injury period in consonance with consistent decline in production of the domestic industry.

**Factors affecting domestic prices**

61. Consideration of the factors like import prices from the subject countries and other countries, change in the cost structure and competition in the domestic market, might be affecting the prices of the domestic industry in the domestic market. The analysis show that the landed value of imported material from Taiwan as well as Korea is below the selling price of the domestic industry, causing price undercutting in the Indian market. The benchmark for the Indian producers' prices is the import prices from various sources, including the subject countries. There is no viable substitute to this product. It is also noted that demand for the subject goods is consistent during the POI and therefore demand cannot be a factor affecting domestic prices. Thus, the major factors responsible for the domestic industry prices are the landed prices of imports and the cost of production of the domestic industry.

**Growth**

62. On examination of various economic parameters of the domestic industry, the Authority notes that on a year by year basis, the domestic industry has suffered adverse growth in terms of production, sales, capacity utilisation and market share. Parameters such as profits, cash profits and return on investments have shown positive growth.

**OVERALL ASSESSMENT OF INJURY**

63. In view of the above, it is concluded that imports from subject countries have increased in absolute terms as also in relation to demand and production of the subject goods in India. Sales of the domestic industry has declined significantly, whereas profitability, cash profit and return on investment has improved during the POI. The domestic industry contended that the prices of the PUC were not remunerative compared to the market price for caustic potash, which is a raw material. They have requested that the captive utilization of Caustic Potash be taken at market price. However, as per the established practice, the authority has considered the captive input at its cost of production as per the records maintained by the company. It is concluded that the performance of the domestic industry deteriorated in respect of volume parameters and improved in respect of price parameters. Imports from Korea and Taiwan were undercutting the prices of the domestic industry in the market in spite of prevailing anti dumping duty. Thus, cessation of the antidumping duties from Taiwan and Korea is likely to cause adverse effect on the prices of the domestic industry in the market and is likely to result in significant price depression.

**I. MAGNITUDE OF INJURY AND INJURY MARGIN:**

64. The comparison of non-injurious price of the subject goods produced by the domestic industry as determined by the Authority has been compared with the landed value of the imports for determination of injury margin during the POI is as under:

S.No	Country of Origin	Name of Producer	Exporter	NIP US\$/MT	Landed Price US\$/MT	Injury Margin US\$/MT	Injury Margin %	Injury Margin range
1	Korea RP	UNID Co., Ltd., Korea RP	UNID Co., Ltd., Korea RP	***	***	***	***	(10-20)
2	Korea RP	All other Producers	All other exporter	***	***	***	***	0-10
3	EU	All Producers	All exporters	***	***	***	***	(20-30)
4	China PR	All Producers	All exporters	***	***	***	***	(30-40)
5	Taiwan (Chinese Taipei)	All Producers	All exporters	***	***	***	***	10-20

#### J. Causal Link

65. As per the AD Rules, the Designated Authority is, inter alia, required to examine any known factors other than dumped imports which at the same time are injuring the domestic industry, so that the injury caused by these other factors must not be attributed to the dumped imports. Factors which may be relevant in this respect include, inter alia, the volume and prices of imports not sold at dumping prices, contraction in demand or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and the productivity of the domestic industry. It was examined whether these other parameters listed under the Rules could have contributed to injury to the domestic industry.

- (a) **Volume and value of imports not sold at dumped prices:** - Imports from other countries were at higher prices and therefore could not have contributed to the injury suffered by DI.
- (b) **Contraction in demand:** - The Authority notes that the demand of the product under consideration has shown a positive growth throughout the injury period. Hence, contraction in demand is not a possible reason, which could have contributed to injury to the domestic industry.
- (c) **Changes in the patterns of consumption:** - The pattern of consumption with regard to the product under consideration has not undergone any change. Change in the pattern of consumption is unlikely to contribute to the injury to the domestic industry.
- (d) **Trade restrictive practices of and competition between the foreign and domestic producers:** - There is no trade restrictive practice, which can contribute to the injury to the domestic industry.

- (e) **Developments in technology:** - It is noted that the technology for production of the product has neither undergone any material change nor is likely to change in future. Developments in technology, therefore, do not appear to be a possible factor of injury. The domestic industry is producing the product under consideration for the past several years. The technology adopted by domestic industry is comparable to the technology adopted by other players world-over.
- (f) **Performance of other products produced and sold by the domestic industry:** - The domestic industry is a multi-product company. However, injury analysis has been made with respect to the product under consideration only.
- (g) **Productivity:-** It is noted that productivity of the domestic industry has improved in POI. Thus, decline in productivity does not appear to be a cause of injury to the domestic industry in the POI.

**K. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING AND INJURY**

66. The Authority observed that this is a sunset review investigation and the focus of this investigation is to examine the likely scenario of injury if the duties were to be removed, even if there is no current injury. For this, the authority has relied on the Post POI and third country data for the analysis.

**Submissions by the domestic industry**

67. The domestic industry in its submissions claimed that the requirement under a sunset review is to examine whether revocation of anti dumping duty is likely to lead to continuance or recurrence of injury to the domestic industry and, therefore, any examination which is not based on the factors listed for a threat analysis would be flawed.

68. In addition to the examination of continued dumping and injury, likelihood of continuation or recurrence of dumping and injury to the domestic industry has also been examined by the Authority on the basis of information and evidence as submitted by the domestic industry during the course of the investigations.

69. Following are the submissions made by the domestic industry on likelihood or recurrence of dumping and injury as follows:

- i. Dumping Margins determined in previous investigations and present petition are positive (except for EU) and significant and clearly shows likelihood of dumping and consequent injury in the event of cessation of anti dumping duty
- ii. Despite anti dumping duty in place, the exporters are continuing to dump goods, in higher volume. This fact itself establishes that revocation of anti dumping duty will lead to further intensify dumping.

- iii. Petitioner has determined dumping margin in respect of exports of the product under consideration from subject countries to third countries. The dumping margin is significant for all the subject countries except EU.
- iv. The subject foreign producers are holding huge production capacities. It is submitted that in case of cessation of the present duty, dumping from subject countries is likely to increase and cause injury to the Domestic Industry
- v. Shandong Lunan Chemical Technology Limited, a Chinese producer and exporter of subject goods, cites its production capacity as 40,000 tons of potassium carbonate annually on its website. It is single-handedly capable of meeting India's annual demand of subject goods
- vi. The foreign producers are intensely focused on exports. In the event of cessation of duty, these exporters are likely to increase their exports to India at dumped prices. Exports of subject goods from subject countries to world are significant.
- vii. Price undercutting without anti-dumping duty is high in the POI. Thus, it is evident that if anti-dumping duties currently in place are allowed to expire; the imports would cause severe price undercutting which would cause material injury to the Domestic Industry
- viii. The prices at which subject goods are being imported are substantially lower than the price at which the goods are being sold in the domestic market. Therefore, in case of expiry of duty, exporters from subject countries would further channelize their output in the Indian market in view of the significant capacity with it.
- ix. In the event of cessation of current anti-dumping duty and if Domestic Industry is constrained to sell at import prices, the profitability will further decline. Further, if the Domestic Industry chooses to maintain its price at the same level, the import volume will increase, given significant price difference between the domestic and import prices. This is likely to cause significant deterioration in sales, production and capacity utilization of the domestic industry.

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

- 70. All factors brought to the notice of the Authority have been examined to determine as to whether there is a likelihood of injury in the event of cessation of the duty. The Authority has determined whether injury to the domestic industry is likely to recur due to these imports if the duty cease to exist.
- 71. The Authority has examined the contention of the domestic industry and has examined likelihood of continuation or recurrence of dumping and injury. As this is a sunset review, the post POI and third country exports data was analysed. Individual countries trade data has been considered for analysis of post POI data Export to third country data has been sourced from World Trade Atlas. Data submitted by the responding exporter (a major producer) from Korea has also been considered for likelihood analysis concerning Korea.

**KOREA RP - Post POI Analysis (April 2014 to September 2014)**

## Post POI Dumping Margin

Particulars	UOM	Value
Normal Value	US\$/MT	***
Export Price	US\$/MT	***
Dumping Margin	US\$/MT	***
Dumping Margin %	%	(0.59)

## Post POI Injury Margin

Particulars	Unit	Korea
NIP for Post POI	\$/MT	***
Landed Import Price	\$/MT	***
Injury Margin	\$/MT	***
Injury Margin %	%	(14.70)

72. The post POI data analysis shows that dumping margin and injury margin is negative.

**KOREA RP - Third Country Analysis in POI and post POI**

73. Co-operative exporter's exports from Korea to rest of the world other than India (ROW) have been analysed and the authority noted that out of the total quantity exported to ROW, 44025 MT (75%) during POI and 28120 MT (82%) during post POI were at dumped prices. The authority has further analysed whether such dumped goods if exported to India would cause injury to the domestic industry. The authority notes from the analysis that out of the aforesaid quantity, 9268MT (16%) of total exports to ROW during POI and 11993MT (35%) during post POI may cause injury to the domestic industry if diverted to India.

**China PR - Third Country Analysis in POI and post POI**

74. Third country exports of China PR to rest of the world other than India (ROW) sourced from World Trade Atlas data also have been analysed. The analysis revealed that out of the total quantity exported to ROW, 4353MT (59%) during POI and 1637 MT (39%) during post POI were at dumped prices. In order to ascertain whether such dumped goods if exported to India would cause injury to the domestic industry, it was found that 500MT

(7%) of total quantity exports to ROW during POI were lower than the NIP compared to the landed price. During post POI however the percentage of such exports is negligible.

### **EU - Third Country Analysis in POI and post POI**

75. Third country exports of European Union to rest of the world other than India (ROW) sourced from World Trade Atlas data also have been analysed. The analysis revealed that out of the total quantity exported to ROW, 9292MT (44%) during POI and 8293 MT (58%) were at dumped prices. Further, analysis of data shows that 234MT (1%) of total exports to ROW during POI may cause injury to the domestic industry if such dumped goods were diverted to India. The post POI data however demonstrated that in spite dumping there is no threat of injury to the domestic industry.

### **L. SURPLUS CAPACITIES WITH THE FOREIGN PRODUCERS WHO ARE EXPORT ORIENTED.**

76. As per records, the capacity with the producers in Korea and China are to the extent of 4,22,725 MT. Data provided by the domestic industry shows capacities with various exporters as follows:

NAME	CAPACITY/PRODUCTION
<b>Korea RP</b>	
UNID Co. Ltd	96725 MT/year
Chemi powder Co	36000 MT/year
Total	<b>132725 MT/year</b>
<b>China</b>	
Tianjin Dingshengxin Chemical Industry Co.	70000 MT/year
Jiangsu Kolod Food Ingredient Co	60000 MT/year
Wentong Potassium Salt Group Co	120000 MT/year
Shandong Lunan Chem Technology	40000 MT/year
Total	<b>290000 MT/year</b>

77. The Authority notes that as against 27,497 MT of Indian demand established in the POI, the Korean producers are having production capacities to the extent of 132725 MT, which is sufficient to take care of five times the Indian demand of the product in the country. Similarly Chinese production capacities are ten times the Indian demand.
78. Table below shows exports of subject goods from subject countries to India and rest of the world during POI (Source: World Trade Atlas).

Country	Exports to India (MT)	Exports to Third Countries (MT)	Total (MT)
China	794	9,913	10,707
Taiwan	920	13,324	14,244
Korea	9455	60,008	69,463
EU	1929	21,199	23,128

79. It is noted from the table above that Korean exports to India as well as rest of the world are substantial, however even though capacity with Chinese producers are huge as per the information received from the domestic industry, the export data does not show high export orientation.

#### **M. PRICE ATTRACTIVENESS OF INDIAN MARKET**

80. The prices at which subject goods are being imported from Taiwan are substantially lower than the price at which the goods are being sold in the domestic market. Therefore, in case of expiry of duty, it is likely that exporters from subject countries would further channelize their output in the Indian market in view of the significant capacity with it.

81. However, in case of EU the import prices are significantly higher than the DI prices thus showing no likelihood of recurrence of injury to the domestic industry.

82. In this regard, the information relating to Korean exports to various countries globally were examined by the Authority on the basis of transaction wise information given by the responding exporter. Considering these prices as FOB export prices, dumping margin and injury margin were determined after due adjustments (from FOB to ex-factory in respect of dumping margin and from FOB to landed price in case of injury margin). It is seen that 16% of the total volume of exports from UNID Co. Korea to various countries globally during the period of investigation was at prices below the non injurious price of the domestic industry. Also, 75% of exports are at dumped prices.

Particulars	Unit	Quantity
Total volume of exports to all countries	MT	58,495
Volume of exports at dumped prices	MT	44025
Volume of exports at injurious prices (when compared to NIP of the domestic industry)	MT	9268
Share of dumped exports	%	75
Share of injurious exports	%	16

83. It is, thus, seen that a very significant proportion of Korea's exports to third countries was at dumped prices, and at a price where domestic industry would suffer injury, if these exports are diverted to Indian market. Further, considering demand in India, this volume of exports at dumped and injurious prices is significant. This shows likelihood of dumping in the event of revocation of duty.

#### **N. VULNERABILITY OF THE DOMESTIC INDUSTRY**

84. Petitioner has submitted that the Indian market is highly price sensitive. The consumers decide their procurement, with the price being the foremost consideration. Vulnerability of

the domestic industry relates to whether the industry would be susceptible to material injury in the event of cessation of antidumping duty imposed. The Authority has therefore considered whether the performance of the domestic industry will deteriorate upon cessation of anti dumping duty.

85. It is seen that in the event of cessation of current antidumping duty on imports from Korea and Taiwan, the domestic industry will have to either reduce the selling price or the domestic industry would lose sales volumes. It is further noted that in the event of cessation of current anti-dumping duty on Taiwan and Korea and if Domestic Industry is constrained to sell at import prices, the profitability will decline. The return on investment and cash profit would also deteriorate. Therefore, cessation of anti-dumping duty would have significant adverse effect on the prices in the market. Further, in the event of cessation of current anti-dumping duty on Taiwan and Korea, should the Domestic Industry choose to maintain its price at the same level, the import volume will increase, given significant price difference between the domestic and import prices. This is likely to cause significant deterioration in sales, production and capacity utilization of the domestic industry.

**O. INDIAN INDUSTRY'S INTEREST & OTHER ISSUES:**

86. The Authority notes that the purpose of anti-dumping duties, in general, is to eliminate injury caused to the domestic industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Imposition of anti-dumping measures would not restrict imports from the subject country/territory in any way, and, therefore, would not affect the availability of the product to the consumers.
87. It is recognized that the imposition of anti-dumping duties might affect the price levels of the product manufactured using the subject goods and consequently might have some influence on relative competitiveness of this product. However, fair competition in the Indian market will not be reduced by the anti-dumping measures, particularly if the levy of the anti-dumping duty is restricted to an amount necessary to redress the injury to the domestic industry. On the contrary, imposition of anti-dumping measures would remove the unfair advantages gained by dumping practices, would prevent the decline in the performance of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods.

**P. Post Disclosure Statements/ submissions**

**Post Disclosure Statement by the Opposing Interested Parties**

88. The Producer and exporter M/s UNID Co. has submitted that while examining injury margin for third country sales during POI & Post POI, DGAD has ignored all such transactions which were found to be above NIP. This amounts to zeroing. The same is not permitted under the law. We submit that this approach of DGAD is contrary to the rulings of WTO Panel.

**Post Disclosure Statement submissions by the Domestic Industry**

89. Following are in brief the post Disclosure Statement submissions made by the domestic industry:
- a. The product under consideration continues to be exported at dumped price from Korea and Taiwan.
  - b. The Designated Authority has determined negative dumping margin in case of UNID Co. The petitioner submits that the Designated Authority has not considered captive inputs at its market value inspite of their specific request. If the captive inputs are not considered at their market value, it shall imply in the facts of the present case that a party has earned higher profits in captive input and loss in product under consideration.
  - c. The performance of the domestic industry deteriorated in respect of volume parameters and improved in respect of price parameters.
  - d. The Authority has even though recorded the submission of the domestic industry that the raw material price (caustic potash) should be valued at market price, but has not considered the same.
  - e. The raw material involved for the product under consideration is caustic potash (KOH), which is a tradable product, should be considered at its market value in calculation of dumping margin and injury margin. KOH can be sold in lye or flake form in the market, or processed further to produce K<sub>2</sub>CO<sub>3</sub>. It would be seen that significant volumes of KOH is sold in the market therefore, the cost of production of K<sub>2</sub>CO<sub>3</sub> is required to be determined after considering KOH at its market value.
  - f. Elements of costs even though might be based on the records kept by the exporter, nevertheless does not imply that the Designated Authority is bound to adopt the cost of production of the exporter without satisfaction whether the same reasonably reflect the cost associated with production and sale of the product under consideration.
  - g. There has to be a single NIP for a product as envisaged by the Rules, and not several NIPs for the same product.
  - h. Imports from Korea and Taiwan are undercutting the prices of the domestic industry in the market in spite of prevailing anti dumping duty. There is likelihood of dumping and injury from subject countries, except EU, as established by the following:
    - i) In case of China, while dumping margin & injury margin are negative in POI and post POI. However, these are all positive if the captive inputs are considered at their market values.

- ii) China has significant surplus capacity of the subject goods and Chinese Companies are highly export orientation. This also shows that there exist likelihood of recurrence of dumping and injury from China in the event of cessation of anti dumping duty.
  - iii) In case of Korea, while dumping margin & injury margin are negative in POI and post POI for Unid Co., Korea, the same are positive in respect of "any other producer/exporter", if captive input is considered at costs. Further, these are all positive if the captive inputs are considered at their market values.
- i. Determination of non injurious price is inappropriate and is leading to unduly low protection to the domestic industry. Net Fixed Assets cannot form the basis for determination of profits when the original plant setup by the domestic industry is almost 90% depreciated. Given the high age of the plant, the Designated Authority should consider higher rate of return for the domestic industry.
  - j. Anti dumping duty should be imposed only as fixed quantum in US Dollars.

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

- 90. The Authority noted the argument made by the responding exporter that injury margin for third country analysis in POI and Post POI has been determined by ignoring all transactions which were found to be above NIP, is incorrect. The said analysis is not for calculating dumping or injury margin whereby the concept of zeroing in has been disallowed as mentioned by the exporter. In the instant case the post POI data has been used for recurrence analysis to arrive at the conclusion of likelihood of injury in case of revocation of duty by diversion of subject goods.
- 91. The argument of the domestic industry is repetitive however they are being dealt with again here under. The main thrust of the submission of DI is that the valuation of captive input i.e. caustic potash (KOH) should be at its market value and not at its cost as recorded in the books of accounts, the authority notes that it has determined the NIP in terms Annexure III to AD Rules and the books of accounts maintained by the DI.
- 92. As per Clause 2 of annexure III to AD Rules, the Authority is calculating NIP in order to “determine the fair selling (notional) price or non-injurious price of the like domestic product taking into account the principles specified herein under “. The purpose of computing NIP is to see the actual cost incurred by domestic producers and then allowing them a reasonable return on capital employed by them to arrive at a price, which would be

fair selling price. When actual cost is to be taken, there is no reason to adopt the market price of captively produced inputs.

93. DI cannot argue that the cost of production of PUC should be based on the market value of intermediate product produced by them when they are actually producing it from the basic stage. The authority has considered the cost of production as recorded in the books of accounts maintained by the domestic industry and allowed return on capital employed by them for the manufacture of PUC including the one relating to captive input.
94. As regards the contention of DI that the Authority should consider the Cost of Production as recorded in the books of accounts only when it is reasonable, the Authority holds that the cost of production data as per the records of the domestic industry as well as for the co-operative exporters were as per the Generally Accepted Accounting Principles of the respective countries. The Authority has, therefore, relied on such data for determining the cost of production of the subject goods. The submission of DI that the Authority has computed several NIPs is not correct.
95. As regards the submission of DI that the NIP determined by the Authority is inappropriate, the Authority notes that the NIP has been determined in terms of Annexure III to the AD rules.
96. As regards the submission of DI that antidumping duty should be imposed as fixed duty in US\$, the Authority has recommended the fixed duty in US\$.
97. It is concluded by the Authority that costs based on the records kept by the domestic industry and verified by the authority has been considered for calculating cost of production, as per the practice followed by the Authority.

#### **Q. Conclusion and Recommendation**

98. The Authority notes that exporters from Korea, Taiwan and EU participated in the investigation. The Questionnaire response from UNID Co. Ltd was complete and has been admitted. The Questionnaire responses from the exporters from Taiwan and EU were found incomplete and have been rejected. None of the exporters or producer from China have submitted questionnaire responses, or participated in the Oral Hearing or made any post Disclosure Statement submissions.

99. Having regard to the contentions raised, information provided and submissions made by the domestic industry and facts available before the Authority and on the basis of above analysis the Authority concludes and recommends that:

- (i) The performance of the domestic industry in terms of production, sales, capacity utilisation and market share has deteriorated; however, profits, cash profits and ROI shows improvement over the injury period.
- (ii) The subject goods from Taiwan are entering in the Indian market at dumped prices in the POI with a substantial dumping margin. Further, the injury margin is also positive.
- (iii) The analysis of data for Korea indicates that even though dumping margin and injury margin determined for the responding exporter is negative during the POI, the post POI and third country analysis shows positive injury and dumping margin. Moreover, in view of the evidence of surplus capacity, export orientation and price attractiveness of the Indian market for the Korean producers, the Authority holds that there is likelihood of recurrence of dumping and injury from Korea.
- (iv) The dumping margin and injury margin determined for China and EU during POI is negative. Price undercutting and price underselling are also negative without the anti dumping duties from China and EU. Further even though third country dumping margin is positive for EU and China during the POI, the injury margin remains negative. It is also noted that the exporters from China do not show high export orientation despite the claim of significant surplus capacities. Thus, the Authority holds that there is no likelihood of recurrence of dumping and injury from China and EU.
- (v) The Authority, thus, in order to remove likely injury to the domestic industry, considers it necessary to recommend continuation of the definitive anti dumping duty on all imports of the subject goods from Korea levied by the Central Government vide its Notification No.61/2009-Customs dated 10<sup>th</sup> June, 2009 and imposition of definitive anti dumping duty on all imports of the subject goods from Taiwan as per table below:

Duty Table									
Sl. No	Tariff Item	Description of Goods	Specification	Country of Origin	Country of Export	Producer	Exporter	Amount (in USD)	Unit of Measurement
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1.	28364000	Potassium Carbonate	Any specification	Taiwan	Taiwan	Any	Any	153	MT
2.	28364000	Potassium Carbonate	Any specification	Taiwan	Any country other than Taiwan	Any	Any	153	MT
3.	28364000	Potassium Carbonate	Any specification	Any country except Korea RP & Taiwan	Taiwan	Any	Any	153	MT
4.	28364000	Potassium Carbonate	Any specification	Korea RP	Korea RP	M/s UNID Co. Ltd.	M/s UNID Co. Ltd.	9.45	MT
5.	28364000	Potassium Carbonate	Any specification	Korea RP	Korea RP	Any combination other than 4 above		123.86	Mt
6.	28364000	Potassium Carbonate	Any specification	Korea RP	Any country other than Korea	Any	Any	123.86	MT
7.	28364000	Potassium Carbonate	Any specification	Any country other than Korea & Taiwan	Korea RP	Any	Any	123.86	MT

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

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

(J. K. Dadoo)  
Designated Authority