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Government of India
Ministry of Commerce & Industry
Department of Commerce
(Directorate General of Anti Dumping & Allied Duties)
4th Floor, Jeevan Tara Building, 5, Parliament Street, New Delhi 110001

NOTIFICATION

Date 20th June, 2017

(Final Findings)

Subject: Final findings in Mid-term Review investigation of anti-dumping duty concerning imports of caustic soda, originating in or exported from Iran, Saudi Arabia & USA.

A. Background of the case

1. The Designated Authority, on the basis of an application received from M/s Alkali Manufacturers Association of India (AMAI), had conducted the 2nd Sunset Review of the anti-dumping duty on imports of Caustic Soda and the Authority had recommended duties vide Final Findings Notification No. No.15/28/2010-DGAD dated 31st August, 2012 on the imports of Caustic Soda originating in or exported from Saudi Arabia, Iran, Japan and USA. As per these recommendations the duties were extended by the Central Government vide Notification No. Customs Notification No. 49/2012 dated 26th November, 2012. The Duties are valid till 25th November, 2017.
2. Alkali Manufacturers Association of India (AMAI) had filed an application in September, 2015 for initiation of a Mid Term Review Investigation for enhancement of the antidumping duty on import of Caustic Soda (Sodium Hydroxide) originating in or exported from Iran in accordance with section 9A of the Customs Tariff Act 1975 read with Rule 23 of the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995. They claimed that the circumstances that were prevalent during the period of investigation of the original investigation have changed significantly leading to a situation where the existing anti-dumping duties against Iran need to be reviewed.
3. The applicants claimed that the producers/exporters in Iran are continuing to export the product to the Indian market at dumped prices and the present quantum of ADD is grossly insufficient to address the present level of dumping and injury margin due to certain changed circumstances and therefore, there is a need to review the duty against this country for enhancement of duty to address the changed circumstances.

4. The applicants inter alia claimed that due to significant increase in raw material cost and utility costs for production of the subject goods after imposition/extension of the duties in the last sunset review leading to significant change in cost of sales and Non-Injurious Price. It was also submitted that the landed value, and dumping and injury margins of imports from Iran has undergone significant changes as a result of which the current level of duty on Iran is not covering the injury suffered by the Domestic Industry. It was also pointed out that due to low duty on Iran the imports have significantly increased. The applicants also submitted that due to change in cost and price structure the dumping margins have also significantly changed. Therefore, it was submitted by the applicant that these changed circumstances necessitate a review for enhancement of duty as the current duty does not cover the injury suffered by the industry due to changed circumstances.
5. The Authority examined the issues and was of the view that since the grounds expounded by the applicants, i.e., change in costs of raw material and utilities after last extension/imposition of the duties is valid for all countries involved in this investigation, it would be more appropriate to carry out a comprehensive review of the duty in force against all the countries on which the duties are in force i.e., Iran, Saudi Arabia and USA.
6. Accordingly, the Authority initiated a comprehensive mid-term review of the duties imposed vide Customs Notification No. 49/2012 dated 26th November, 2012, through a Notification dated 22nd January 2016 published in the Gazette of India extraordinary, in accordance with section 9A (5) of the Act, read with Rule 23 of the Rules, covering all aspects of dumping, injury and causal link to examine the need for continued imposition of the duties in view of the changed circumstances as alleged by the petitioners and to examine whether the injury to the Domestic Industry is likely to continue or recur or both if the duties are revoked or varied.

B. Procedure

7. The procedure described below has been followed with regard to the subject investigation:
 - i. The Embassies of the subject countries in New Delhi were informed about the initiation of the mid-term review investigations in accordance with Rule 6(2).
 - ii. The Authority provided copies of the non-confidential version of the application to the known exporters and the Embassies of the subject countries in accordance with Rules 6(3) supra. A copy of the non- confidential version of the application was also made available in the public file and provided to other interested parties, wherever requested.
 - iii. The Authority forwarded copies of the public notice to the following known manufacturers/exporters in the subject countries (whose names and addresses were made available to the Authority by the petitioner) and provided opportunity to make their views known in writing within forty days from the date of the letter in accordance with the Rules 6(2) & 6(4).

- a) Chlor Pars, Iran
- b) Aryan Sana Co. Ltd, Iran
- c) Arvand Petrochemical Company, Iran
- d) Behan Chemical Company, Iran
- e) National Petrochemical Company, Iran
- f) Permaco Co. Ltd, Iran
- g) Saudi Basic Industries Corporation (HQ), Saudi Arabia
- h) Saudi Petrochemical Company, Saudi Arabia
- i) Midpoint Chemical Company, USA
- j) US Azko Chemicals Ltd., USA
- k) M/s Dow Chemical Co., USA

iv. Following producers/exporters of the subject goods in the subject countries have filed questionnaire responses:

- a) M/s Aravand Petrochemical Company (Producer), Iran
- b) M/s Petrochemical Commercial Co., Iran (Exporter)
- c) M/s Saudi Petrochemical Company (SADAF) (Producer),
- d) M/s Saudi Basic Industries Corporation (SABIC) (Exporter),
- e) M/s Shell Trading (M.E.) Pvt. Ltd (STME) (Trader), Dubai
- f) M/s Metron Middle East FZE, (Trader), Dubai
- g) M/s Petrochem Middle East FZE, (Trader), Dubai

v. The Authority forwarded copies of the public notice to the following known importers/consumers of subject goods in India (whose names and addresses were made available to the authority by the applicants) and advised them to make their views known in writing within forty days from the date of issue of the letter, in accordance with the Rule 6(4):

- a) Abhay Chemicals Limited, Gujarat
- b) Albright Wilson Chemicals Limited, Mumbai
- c) Arvind Mills Limited, Gujarat
- d) Birla Cellulose Limited, Gujarat
- e) Central Pulp Mills Limited, New Delhi
- f) Deepak Nitrite Limited, Gujarat
- g) Godrej Sopas Limited, Mumbai
- h) Gujarat Narmada Fertilizer & Chemicals Limited, Gujarat
- i) Gujarat State Fertilizer & Chemicals Limited, Gujarat
- j) Indian Farmer Fertilizer Coop. Ltd
- k) Indian Oil Corporation Limited, Gujarat
- l) Jaysynth Dyechem Limited, Mumbai
- m) Link Pharma Ltd., Gujarat
- n) Meghmani Organics Limited, Gujarat
- o) Narmada Chemature Petrochemicals Ltd., Gujarat
- p) Nirma Limited, Gujarat

- q) Pab Chemicals (P) Ltd, Gujarat
- r) Rama News Prints & Papers Ltd, Gujarat
- s) Rubamin Limited, Gujarat
- t) Sabero Organics Limited, Mumbai
- u) Torrent Gujarat Biotech Limited, Gujarat
- v) Transpek Silox Industries Limited, Gujarat
- w) National Aluminium Company Ltd, Orissa
- x) Cyanides & Chemicals Company, Mumbai
- y) Hitsu Industries Limited, Gujarat
- z) Adani Exports Limited, Gujarat
- aa) Adani Wilmar Limited, Gujarat
- bb) Libra Foams, Uttar Pradesh
- cc) Shri Ramchandra Straw Products Ltd, Uttar Pradesh
- dd) Bilag Industries Pvt. Ltd., Gujarat
- ee) Daurate Organics Limited, New Delhi
- ff) CJ Shah & Co., Mumbai
- gg) Harish Kr & Company, Mumbai
- hh) Hindustan Link & Resins Limited, Gujarat
- ii) Hindustan Lever limited, Mumbai

vi. The following importers/users of the subject goods in India have filed their questionnaire responses:

- a) M/s Petrochem Middle East India Pvt. Ltd.
- b) M/s M/s NALCO Ltd., Bhubaneswar
- c) M/s Vedanta Limited (Aluminium Division)

Apart from the above importers of the subject goods Aluminium Association of India has filed legal submissions as an interested party to the investigation and the submissions made by them have been taken on record.

- vii. The period of investigation for the purpose of the present review is 1st October, 2014 to 30th September, 2015 (12 months). However, injury analysis covers the years 2011-12, 2012-13, 2013-14, 2014 -15 and (POI). The investigation covers both dumping and injury analysis.
- viii. Transaction-wise imports data for the period of investigation and preceding three years was procured from the Directorate General of Commercial Intelligence and Statistics (DGCI&S) and the same has been relied upon for the purpose of analysis in this investigation.
- ix. Exporters, producers, importers and other parties concerned with the subject goods, who have neither responded to the Authority, nor supplied information relevant to this investigation, have not been treated as interested parties in this investigation.

- x. 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 other interested parties as per Rule 6(7).
- xi. The Authority has examined the information furnished by the domestic producers to the extent possible on the basis of guidelines laid down in Annexure III of the Rules to work out the cost of production and the non-injurious price of the subject goods in India so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the Domestic Industry.
- xii. The Authority provided opportunity to all interested parties to present their views in oral hearings held on 16th August 2016 and 3rd November 2016. All the interested parties attending the hearings were requested to file written submissions/rejoinders of the views expressed orally. The submissions made by the interested parties during the course of this investigation have been examined and addressed in this finding.
- xiii. The Authority, during the course of investigation, satisfied itself as to the accuracy of the information supplied by the interested parties, which forms the basis of this final findings to the extent possible and conducted verification of the data/documents at the premises of the Domestic Industry to the extent considered relevant and necessary.
- xiv. Information provided by the interested parties on confidential basis were examined with regard to sufficiency of the confidentiality claims. 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.
- xv. A disclosure statement was issued on 30.05.2017 containing essential facts under consideration of the Designated Authority, which have formed the basis for this Final Finding Notification. A time up to 06.06.2017 was given to furnish comments, if any, on Disclosure Statement. The Authority has considered post disclosure comments received from interested parties appropriately.
- xvi. *** in this final finding notification represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
- xvii. The exchange rate for the POI has been taken by the Authority as Rs. 63.61 = 1US\$.

C. Scope of Product under Consideration and like article

(a) Views of the Interested Parties

- 8. None of the interested parties have raised any issue regarding the scope of the product under consideration or like article.

(b) Examination by the Authority

9. The product under consideration in the present mid-term review investigation is Sodium Hydroxide (chemical nomenclature NaOH), commonly known as Caustic Soda, in all forms.
10. 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 fiber, aluminum, 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 technological processes, i.e., mercury cell process, diaphragm process and membrane process. The difference in these processes does not lead to a difference in product in terms of various characteristics.
11. 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 classifications, the product is classified under the Customs Heading 2815.1110, 2815.1120 and 2815.1200. The classification is however, indicative only and is in no way binding on the scope of the present investigation.
12. Since, none of the importers, consumers, exporters, Domestic Industry and other interested parties has made any comment or submissions with regard to product under consideration and like articles, the scope of the product under consideration in the present review investigation remains the same as that in the original investigation.

D. Scope of Domestic Industry & Standing

(a) Views of the Interested Parties

13. The opposing interested parties, in their submissions, have argued that the composition of the Domestic Industry supporting the imposition of anti-dumping duties has dramatically changed since the previous sunset review and this change affects the determination of the injury in the present investigation. It has been argued that while in the 2012 sunset review, the Domestic Industry supporting the extension of the anti-dumping duties was made up of 7 producers of the subject goods i.e., Gujarat Alkalies & Chemicals Limited; Grasim Industries Limited; Shiram Fertilisers & Chemicals; Aditya Birla Chemicals (India) Limited (now taken over by Grasim Industries); DCW Limited; SEIL Chemical Complex; and Shriram Alkali & Chemicals, in the present mid-term review investigation, only 3 companies, namely Gujarat Alkalies & Chemicals Limited, DCW Limited and Grasim Industries Limited, support the Petition. The change in the composition of the Domestic Industry supporting the Petition between the previous sunset review and the present investigation clearly affects the injury determination insofar as all the injury indicators are affected by the weak support in favour of the Petition.
14. It has been further argued that the domestic producers not supporting the Petition indicates the fact that they are performing well. For instance, the profits after tax of Shiram Fertilisers & Chemicals have increased significantly between 2012 and 2016. Similarly,

SEIL Chemical Complex reported an improvement in the caustic soda prices and production. Therefore, the Designated Authority should take into consideration the change in the Domestic Industry and analyze the situation of the other domestic producers in order to determine whether the Domestic Industry suffered injury, quod non, and to establish the causal link.

(b) Views of the Domestic Industry

15. The applicants have argued that the Domestic Industry's position is always seen on a case by case basis. Even in earlier Caustic Soda cases, participating companies have changed from one investigation to the next MTR investigation. For example, participating companies in the Final Finding of Caustic Soda dated 1st October, 2003 concerning imports from Chinese Taipei, Indonesia and EU (excluding France) were materially different from the participating companies in the following MTR investigation dated 2nd June 2006 concerning subject goods from the same set of subject countries as in the earlier finding. Therefore, the arguments of the opposing interested parties are not valid.

(c) Examination by the Authority

16. The application for the review was initially filed by the Alkali Manufacturers Association of India on behalf of the Domestic Industry M/s Gujarat Alkalies and Chemicals Ltd, M/s Grasim Industries Ltd, and M/s DCW Ltd, commanding about 33% of domestic production of the subject goods as participating domestic producers for the purpose of injury investigation.
17. The Authority notes that though the application for the Mid Term Review for partial determination was filed by the Alkali Manufacturers Association of India on behalf of the Domestic Industry with M/s Gujarat Alkalies and Chemicals Ltd, M/s Grasim Industries Ltd, and M/s DCW Ltd, on the basis of positive information received by the Authority, it was decided to convert it to a comprehensive mid-term review investigation covering both dumping and injury. Accordingly, the applicant association was asked to file cost and injury information with regard to more domestic producers commanding a major proportion of the domestic production of the subject goods for a more representative injury examination. In compliance the applicants have submitted cost and injury data of all units of the above domestic producers and SIEL Ltd. accounting for about 49.87% of the total domestic production during the POI. Accordingly, hereinafter for the purpose of injury investigation the above participating domestic producers, constituting a major proportion of the domestic production of the subject goods, have been treated as the Domestic Industry in this review investigation.

E. Interested Parties to this investigation

18. The Authority notes that the subject review investigation was notified to all concern as recorded above. The parties named in para 7 (iv) and (vi) have filed questionnaire responses and other submissions. Therefore, for the purpose of this investigation the above named

parties and the Governments of the subject countries along with the Domestic Industry shall be treated as interested parties to this investigation.

F. Miscellaneous submissions by the interested parties

19. The interested parties have raised various procedural and substantive issues regarding this investigation, which have been examined as follows:

F.1 Exclusion of Japan in the Review

(a) Views of interested parties

20. It has been argued on behalf of the exporters in Iran that exclusion of Japan from the present review is prejudicial to the interests of the exporters from Iran. It has been argued that the measure is very much in force against Japan though the quantum of duty is zero. It has been further argued that in the previous sunset review investigation, the Authority considered it necessary to impose definitive antidumping duty on all imports of subject goods from the subject countries in order to remove the injury to the Domestic Industry and accordingly, decided that the antidumping duties are required to be extended and modified. Thereafter, the Authority in the duty table, as provided at Para 109 of the notification dated 31st August, 2012 worked out duty quantum for Japan as 'NIL' owing to negative injury margin and the name of Japan was continued in the duty table. The same duty was imposed by MOF which included Japan. Thus, the anti-dumping duty was continued against Japan also but at nil rate. Therefore, the current review should have included Japan also.
21. It has been further argued that exclusion of Japan would vitiate any injury & causal link examination which the Authority would want to conduct in the present MTR since chances of low priced AD duty free imports from Japan causing continued injury to the Domestic Industry cannot be examined in detail by it and no fair conclusion can be expected when such imports from Japan is also not taken into the ambit of present MTR. Since the petitioner has claimed that NIP has gone up the injury margin against Japan also would have gone up.
22. It has been argued that the decision of the Authority not to include Japan in the scope of present MTR also goes against the views taken by the Authority in some recent other investigations wherein the Authority found it mandatory for the exporters who are having 'Nil' duty to participate in the subsequent review.
23. Further, it has been argued that apart from exclusion of Japan from the scope of present MTR, another issue which has serious implications on the proposed injury examination in the present MTR is the significant imports from Qatar at low prices vis-à-vis Iran. Since the price from Qatar is much less than prices from Iran, it cannot be believed that Qatar prices are not creating any adverse effect, if at all the injury claims of Domestic Industry have some basis. Thus, the exclusion of Japan from the scope of present MTR and no investigation against Qatar has vitiated any injury examination in the present MTR and no

objective examination of injury can be carried out by the Authority in view of these two factors. Thus, the basic premise of the present application falls flat qua Iran.

24. The petitioner adopted the pick and choose approach to target and discriminate Iran alone by way of the present application and though the Authority found it appropriate to extend the investigation to Saudi and USA, but the Authority still lapsed to apply same yard sticks on imports from Japan to include it in the scope of present MTR. Therefore, no comprehensive review, as envisaged by the Authority, is possible now without Japan.

(b) Views of the Domestic Industry

25. The Domestic Industry, on the other hand, has argued that in the previous sunset review investigation dumping margin for Japan was positive and the injury margin against was negative. Since the injury margin was negative and no anti-dumping duty was recommended in any combination relating to Japan, a fresh petition with respect to Japan was the only recourse available. A similar situation was followed in HR 304 case also and therefore the exclusion of Japan is not peculiar and does not vitiate the present investigations. Also a fresh investigation is on-going against Japan and Qatar.

(c) Examination by the Authority

26. The Authority notes that as a result of the sunset review carried out in 2012 the Authority determined a negative injury margin with regard to the imports from Japan during the relevant investigation period. During the review investigation post POI data also did not have any significant import from Japan to show a likely volume or price effect to indicate likelihood of recurrence of injury to the Domestic Industry on account of imports from Japan. Under the above circumstances the duty on Japan should have been terminated or withdrawn. Existence of Japan in the duty table does not mean that the measure continued against Japan. The antidumping duties are country as well as exporter specific. The name of an individual producer/exporter, attracting Nil duty, appears in a duty table as such, if other exporters and the country concerned continues to attract the measure. In such a situation where the measure is in force against the country all exporters in that country, including the exporters, attracting 'Nil' duty, are required to be reviewed in the subsequent reviews. On the other hand, if the country as a whole does not attract duty because of 'Nil' dumping or injury margins and where likelihood of recurrence of dumping and injury from that country has not been established, the measure is deemed to be non-existent against that country. In such a situation such non-existent duty need not be reviewed subsequently. Therefore, the Authority has rightly excluded Japan from the current review.

27. As far as alleged low priced imports from Japan and Qatar is concerned, the Authority notes that non-attribution analysis is an integral part of the antidumping investigations. Further, the Authority notes that on the basis of evidence of injurious dumping from Japan and Qatar a fresh investigation has already been initiated against these countries on 14th October, 2016. Therefore, the contention of the exporters from Iran that the Domestic Industry has some kind of tacit understanding with the exporters from Japan to corner the

exporters from Iran or lack of objective examination because of no investigation against Japan does not hold good.

F.2 Scope and timing of the Review

(a) Views of the interested parties

(i) Timing of the Review

28. The opposing interested parties have argued that the timing chosen by the Petitioner to file the Petition was badly chosen and ill-timed. It has been argued that Anti-dumping duties have been imposed on imports of caustic soda originating in, *inter alia*, Saudi Arabia since 2001. The measures have been extended for further 5-year period in 2006 and then in 2012 following sunset reviews. In addition, the measures were subject to a mid-term review in 2010. However, despite the final findings issued by the Designated Authority on 7th July 2011, no Customs Notification was issued by the Central Government to give effect to the final findings issued pursuant to the mid-term review.
29. It has been argued that in the previous mid-term review the limited time-period between the initiation (8th June, 2010), the publication of the final findings (7 July 2011), the expiry date of the measures (12th September, 2011) and the initiation of a second sunset review (2nd September, 2011) made it impossible for the Central Government to issue a Customs Notification to implement the final findings of mid-term review by the Designated Authority. It has been argued that the present mid-term review investigation is also vitiated by the same timing problem.
30. In the present case the mid-term review was initiated on 22nd January, 2016 and the measures are set to expire on 25th November, 2017. However, it is very unlikely for the Central Government to issue a Customs Notification to implement any final findings made by the Designated Authority given that a sunset review is likely to be initiated before the deadline for issuing such a Customs Notice. In this situation, the Central Government will rather wait for the final findings of the sunset review to issue a Customs Notice, as it happened in 2011.
31. Therefore, the timing chosen by the Petitioner to lodge its Petition for a mid-term review is badly chosen and ill-timed as it will inevitably lead to a deadlock situation where the final findings of the Designated Authority will not be implemented by the Ministry of Finance due to the time constraint as it happened in the previous mid-term review. Hence, the present investigation is entirely futile and should be terminated promptly.

(ii) Scope of the Mid-term review

32. It has been argued by the interested parties that the outcome stemming from a mid-term review and from a sunset review is fundamentally different. On the one hand, the objective of a mid-term review is to determine whether the imposition of the anti-dumping measures need to be continued as laid down in Rule 23(1A) of the AD Rules. The possible outcomes

are either the revocation of the duties or the modification of the level of duties for the remaining time of the 5-year period. On the other hand, the objective of a sunset review is to determine whether the imposition of the measures should be extended for another 5-year period in accordance with Rule 23(1B) of the AD Rules. The possible outcomes of a sunset review are either the termination of duties or the continuation of duties (modified or not) for another 5-year period.

33. It has been argued that in a mid-term review the Designated Authority can only determine whether the duties should be revoked or modified before the expiry of the 5-year period and that the continuance of the duties beyond the 5-year period is not a matter under consideration under the mid-term review. As a consequence, in the present mid-term investigation, the Designated Authority is bound by the 5-year time-limit and any modification of the level of the duties can only apply for the remaining period until the expiration of the 5-year period, i.e. until 25th November, 2017 in the present case.

(iii) Extension of Review to Saudi Arabia & USA

34. The opposing interested parties have argued that the petitioners requested for initiation of a mid-term review only against Iran and decided to limit its request to one country on the basis of specific information pertaining to the cost of production, the cost of utilities and the landed value of caustic soda originating in Iran. The Petition does not contain any information on the change in the injury margin of imports of caustic soda originating in Saudi Arabia & USA. However, the Designated Authority decided to extend the mid-term review on its own initiative to imports of the subject product originating in Saudi Arabia and USA.
35. It has been argued that it is clear from the provisions under Rule 23 (1A) of the AD Rules that a mid-term review can only be initiated either by the Designated Authority on its own initiative or following the request of an interested party. The use of the conjunction “or” in Rule 23 (1A) demonstrates the existence of two alternatives: either the review is initiated *suo moto* by the Designated Authority or it is initiated upon the request of an interested party. However, the conjunction “or” specifically excludes the possibility to cumulate the two alternatives. This cumulation would only be possible if the conjunction “and” had been inserted in Rule 23 (1A). The present investigation was initiated by the Designated Authority following the Petition lodged by AMAI. It was thus not possible for the Designated Authority to initiate *suo moto* the investigation. Insofar as the Petition is limited to the imports of the subject goods originating in Iran, the extension of the investigation made by the Designated Authority on its own initiative to imports from Saudi Arabia and the USA is null and void.
36. Further it has been argued that Article 5.6 of the WTO ADA provides “If, in special circumstances, the authorities concerned decide to initiate an investigation without having received a written application by or on behalf of a Domestic Industry for the initiation of such investigation, they shall proceed only if they have sufficient evidence of dumping, injury and a causal link, as described in paragraph 2, to justify the initiation of an

investigation” (emphasis added). The wording of Article 5 of the WTO ADA, namely “Initiation and Subsequent Investigation”, demonstrates that the provisions laid down in the Article apply to original investigations and mid-term and sunset reviews.

37. The Designated Authority has not provided any evidence on the change of circumstances regarding the dumping, injury and causal link or with regard to any changed circumstances for imports of caustic soda originating in Saudi Arabia in blatant violation of the provisions set forth in Article 5.6 of the WTO ADA. Therefore, the extension of the mid-term investigation to the imports of caustic soda originating in Saudi Arabia violates the provisions laid down in Rules 23 (1A) and Article 5.6 of the WTO ADA and that the investigation should be terminated without delay. In addition, anti-dumping duties are also imposed on imports of caustic soda originating in China PR, South Korea, Thailand, Taiwan and Norway. The Designated Authority should have also extended the review to those countries.

(b) Views of the Domestic Industry

38. The Domestic Industry, in its submissions, has argued as under:

- a) That the petitioners had sought initiation of mid-term review investigation concerning imports of subject goods from Iran on account of changed circumstances since the changed circumstances claimed by the petitioners, pertains only to Iran. However, the Designated Authority had considered it appropriate to review the duties on all the subject countries, i.e., Iran, Saudi Arabia and USA;
- b) That the imports from Saudi Arabia have increased significantly in 2012-13 and then declined till 2014-15. These imports in the POI are however at a level above the base year. Further, in the original investigation of 2001 the producer was SADAF, the exporter was SABIC. SABIC is a 50-50% joint venture holder of SADAF. There was a benchmark duty of 267\$ duty on this combination. In 2006 when the review came in, the combination of SADAF and SABIC got a 258\$ duty and SADAF with Shell combination got 243\$ duty and lastly SADAF with Tricon combination got a duty of 250\$. In the present case SADAF and Shell combination has zero duties and the others have substantial duties leading to a situation where entire imports are being channelled through Shell only;
- c) That in the oral hearing, the representatives of Iran and Saudi Arabia and the Domestic Industry stated that since the petition has been put forth for investigation against Iran and that too for a specific issue of injury margin, the investigation against Saudi Arabia may be dropped;
- d) That since the antidumping duty is in force, there are very less imports from USA in the injury period and no imports in the Period of Investigation. However, it is not established that the anti-dumping duty in respect of USA is required to be withdrawn at a premature stage;
- e) That the antidumping duties against Iran are required to be increased. It is, therefore, requested that the injury margin and the quantum of anti-dumping duties on Iran alone is reviewed;

- f) That the investigation may be terminated in respect of imports from Saudi Arabia and USA. Neither the Petitioners have requested this review, nor has any interested party shown interest in seeking this review. In fact, exporters from Saudi Arabia have also submitted that there is no need for review in respect of Saudi Arabia. As far as USA is concerned, in any case, there is no party who has even responded to this initiation;
- g) That the scope of Mid Term Review Investigation is somewhat different from scope of Sunset Review Investigation;
- h) That in a Mid-term review it needs to be established that Injury to the Domestic Industry is not likely to occur in the event of revocation of anti-dumping duty, whereas in a SSR It needs to be established that Injury to the Domestic Industry is likely in the event of cessation of anti-dumping duty;
- i) That in a mid-term review the presumption is that revocation of duties would lead to injury which has to be rebutted by establishing that injury is not likely, whereas in SSR the presumption is that cessation of duties is not likely to lead to recurrence of injury which has to be rebutted by establishing likelihood of injury;
- j) That in a MTR the Authority has to decide whether or not to withdraw the duty, whereas in a SSR the Authority has to decide whether or not to extend/continue;
- k) That the ordinary duration of duty is five years, but it can be withdrawn before such period in certain situations in a mid-term review while in a SSR it can be extended further in certain situations;
- l) That the language of the sunset review and midterm review has been deliberately kept different so as to emphasize more on the cautiousness of establishing the need for withdrawal;
- m) That Designated Authority is required to consider and determine whether antidumping duty is required to be extended further in a sunset review, while in a Mid Term Review, the Designated Authority is required to consider and determine whether there is sufficient justification for withdrawal of antidumping duty at premature stage.
- n) That extension of duty is substantially different from withdrawal of duty. The parameters and obligations in Mid Term Review are quite different from parameters and obligations at the time of Sunset Review.
- o) That the petitioner has practically provided no information to establish “need for withdrawal”.
- p) Even, for modification of anti-dumping duty, the applicants have to establish that changes in circumstances are of lasting nature. Perusal of the petition makes it evident that petition does not even deal with likely dumping and injury. Domestic Industry submits that this information and claim is grossly insufficient for withdrawal the anti-dumping duty at such a stage. The petitioner must establish that there is no justification for continued imposition of anti-dumping duty.
- q) That in a number of decisions of the Designated Authority and CESTAT, it has been held that in case the price undercutting for actual or potential imports and injury margin for actual or potential imports is positive, it is sufficient to conclude that antidumping duty should not be withdrawn. This is required both for actual imports as also potential imports. Actual imports imply imports during the POI.

Potential imports imply imports after POI and up to most recent period. This is required to be done not only for each country separately, but also within country, on individual import transactions. Further, this is required to be done not only for exports to India, but also exports to third countries. Exports to third countries are required to be done not on cumulative basis, but on individual import transaction basis.

- r) That the present review should be limited to determination of injury margin in respect of Iran only. Petitioner refers to the decision of Hon'ble Supreme Court in the matter of Rishiroop Polymers Vs Designated Authority the relevant part of which is extracted below:
- i. *“Otherwise also, we are of the opinion that the scope of the review inquiry by the Designated Authority is limited to the satisfaction as to whether there is justification for continued imposition of such duty on the information received by it. By its very nature, the review inquiry would be limited to see as to whether the conditions which existed at the time of imposition of anti-dumping duty have altered to such an extent that there is no longer justification for continued imposition of the duty. The inquiry is limited to the change in the various parameters like the normal value, export price, dumping margin, fixation of non-injury price and injury to Domestic Industry. The said inquiry has to be limited to the information received with respect to change in various parameters. The entire purpose of the review inquiry is not to see whether there is a need for imposition of anti-dumping duty but to see whether in the absence of such continuance, dumping would increase and the Domestic Industry suffer”.*
- s) That the Authority is required to consider only the grounds for review brought out in the application and should not go beyond that. The petitioner has contended in the petition that the injury margin determined in respect of imports from Iran has increased significantly and is therefore, required to be reviewed. The Designated Authority has already established significant dumping in respect of imports from Iran at the time of previous investigations. The final finding establishes that the margin of dumping in respect of exports from Iran was 25-35% as against which the Authority found an injury margin of 0-10%. Thus, in the present investigations the Designated Authority need not investigate the dumping margin in respect of Iran.
- t) Further, authority is not required to investigate whether the Domestic Industry is suffering injury. The present petition is by Domestic Industry and therefore, the scope of the investigation should be limited to the grounds in the petition. In view of the same, petitioner reiterates that the authority should determine only injury margin in respect of imports from Iran and is not required to determine existence of dumping or injury in respect of imports of Iran and is not required to determine existence of dumping or injury in respect of imports from Iran, nor the authority is required to determine dumping, injury and causal link with regard to Saudi Arabia and USA.

(c) Examination by the Authority

39. The Authority notes that the provisions for the duration of antidumping duties and reviews have been laid down in Article 11 of Antidumping Agreement and Section 9-A(5) of Customs Tariff Act 1975 as amended read with Rule 23 of AD Rules.

40. Article 11 of ADA reads as follows:

“11.1 An anti-dumping duty shall remain in force only as long as and to the extent necessary to counteract dumping which is causing injury.

11.2 The authorities shall review the need for the continued imposition of the duty, where warranted, on their own initiative or, provided that a reasonable period of time has elapsed since the imposition of the definitive anti-dumping duty, upon request by any interested party which submits positive information substantiating the need for a review. Interested parties shall have the right to request the authorities to examine whether the continued imposition of the duty is necessary to offset dumping, whether the injury would be likely to continue or recur if the duty were removed or varied, or both. If, as a result of the review under this paragraph, the authorities determine that the anti-dumping duty is no longer warranted, it shall be terminated immediately.

11.3 Notwithstanding the provisions of paragraphs 1 and 2, any definitive anti-dumping duty shall be terminated on a date not later than five years from its imposition (or from the date of the most recent review under paragraph 2 if that review has covered both dumping and injury, or under this paragraph), unless the authorities determine, in a review initiated before that date on their own initiative or upon a duly substantiated request made by or on behalf of the Domestic Industry within a reasonable period of time prior to that date, that the expiry of the duty would be likely to lead to continuation or recurrence of dumping and injury.²² The duty may remain in force pending the outcome of such a review.

11.4 The provisions of Article 6 regarding evidence and procedure shall apply to any review carried out under this Article. Any such review shall be carried out expeditiously and shall normally be concluded within 12 months of the date of initiation of the review.”

41. Section 9-A(5) of Customs Tariff Act 1975 as amended read with Rule 23 of AD Rules. Section 9 A (5) of the Act reads as follows:

“(5) 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:

Provided further that where a review initiated before the expiry of the aforesaid period of five years has not come to a conclusion before such expiry, the anti-dumping duty may continue to remain in force pending the outcome of such a review for a further period not exceeding one year.”

42. Rule 23 of the Rules as amended by Notification No. 15/2011-Customs (N.T) dated 1st March, 2011 reads as follows:

“23. Review. – (1) any anti-dumping duty imposed under the provision of section 9A of the Act, shall remain in force, so long as and to the extent necessary, to counteract dumping, which is causing injury.

(1A) The designated authority shall review the need for the continued imposition of any anti-dumping duty, where warranted, on its own initiative or upon request by any interested party who submits positive information substantiating the need for such review, and a reasonable period of time has elapsed since the imposition of the definitive anti-dumping duty and upon such review, the designated authority shall recommend to the Central Government for its withdrawal, where it comes to a conclusion that the injury to the Domestic Industry is not likely to continue or recur, if the said anti-dumping duty is removed or varied and is therefore no longer warranted.

(1B) Notwithstanding anything contained in sub-rule (1) or (1A), any definitive antidumping duty levied under the Act, shall be effective for a period not exceeding five years from the date of its imposition, unless the designated authority comes to a conclusion, on a review initiated before that period on its own initiative or upon a duly substantiated request made by or on behalf of the Domestic Industry, within a reasonable period of time prior to the expiry of that period, that the expiry of the said anti-dumping duty is likely to lead to continuation or recurrence of dumping and injury to the Domestic Industry.

(2) Any review initiated under sub-rule (1) shall be concluded within a period not exceeding twelve months from the date of initiation of such review.

(3) The provisions of rules 6, 7, 8, 9/10, 11, 16, 17, 18, 19, and 20 shall be mutatis mutandis applicable in the case of review.”

43. The basic objections raised by the interested parties with regard to the initiation of the review are three fold:

- a) Timing of the review is bad as the gap between the initiation of the review and expiry of the duty is less which may lead to a situation on not acceptance of the recommendations of the Authority by the Central Govt. as has happened in 2011.
 - b) Power of the Authority to extend the review to other countries;
 - c) Meaning and scope of a comprehensive review and the powers of the Authority to extend the duty in a mid-term review.
44. With regard to the first issue the Authority notes that the duties in this case were imposed on 26th November, 2012. The duties are in force till 25th November, 2017. The Mid- term review was initiated on 22nd January, 2016. The investigation is required to be completed on or before 21st January, 2017, or in case of special circumstances, the central government may extend it further by six months. Even if the Authority recommends modification of the duties, as a result of the review without extending the duty, as has been argued by the interested parties, the Central Govt. will have sufficient time to amend the duty orders and the modified duties will have at least 6 months' life before the scheduled expiry date of the review. If the Authority decides to initiate a sunset review, the modified duties will remain in force for another year. Therefore, the apprehensions of the interested parties that the Central Govt. may not accept the recommendations of the Authority to modify the duties are completely unfounded and not based on any legal foundation. The factual matrix of the situation quoted by the interested parties is completely different and has no bearing on the present case.
45. As regard the second issue the Authority notes that Rule 23 of the Rules provides three clear conditions for a review: (i) it casts an obligation on the Authority to review the need for the continued imposition of any anti-dumping duty, where warranted, (ii) on its own initiative or upon request by any interested party who submits positive information substantiating the need for such review, and (iii) a reasonable period of time has elapsed since the imposition of the definitive anti-dumping duty.
46. The Rule provides for 'positive information' only, for a review, as against 'positive evidence' required for a fresh investigation. Moreover, evidentiary standards under Article 5 of ADA do not apply to the Reviews under Article 11. Therefore, the arguments of the Domestic Industry that evidence under Article 5.6 were not provided by the Domestic Industry, are not tenable.
47. The Domestic Industry filed an application for initiation of a Mid-term review in respect of imports from Iran only. However, in their application the Domestic Industry inter alia provided the following positive information and grounds in support of their request for review:
- i. That the raw material cost and utility costs for production of the subject goods have increased sharply after imposition of duties thereby resulting in significant change in

non-Injurious price, landed value and injury margins and the current duties are not sufficient to neutralize the injury margin.

- ii. That the dumping margin of the exports from Iran has also changed substantially necessitating a review of the duty.

48. In paragraph 6 of the notice of initiation, the Authority noted that:

“The Authority further notes that the duty is in force against the goods originating or exported from Iran, Saudi Arabia and USA only and the duties are valid till 25th November 2017. Though the applicants have requested for review of the quantum of antidumping duty in force against the subject goods originating in or exported from Iran only, in view of the changed circumstances as stated by the Domestic Industry, the Authority is of the view that keeping in view the changes in cost and price structure and therefore, dumping and injury aspects, it is appropriate to carry out a comprehensive review of the duty in force against all the countries on which the duties are in force i.e., Iran, Saudi Arabia and USA”

49. It is clear from the above statement made in the initiation notification itself that there was sufficient positive information before the Authority at that point of time, based on application filed by the petitioners, that the changed circumstances warranted a review of the measure in force as a whole rather than a piece meal review with regard to one country alone. The grounds brought forward by the petitioners could not have affected one subject country alone leading to change in injury margin. Injury margin is a function of Non-injurious price of the Domestic Industry and the landed value of imports. If the cost of raw materials and utilities were stated to have changed leading to alleged increase in injury margin of one country, it cannot be argued that it did not affect the other subject countries investigated together. The same argument also holds good for the normal values and export prices of the subject countries as they are also a function of costs. Therefore, it was considered logical by the Authority to examine all the subject countries together rather than one single country. The petitioners have not submitted why the cost and prices in other two countries, simultaneously investigated in 2011, could not have changed. However, the same arguments and changed circumstances may not apply to other countries investigated under separate investigations subsequently, with different and more recent period of investigations, which may not show up significant changed circumstances requiring a review as the essence of such a review are changed circumstances with respect to such measures and reasonable period of time from imposition of such measure.

50. The interested parties have questioned the power of the Authority to extend the review to other countries *suo moto* while the application is for a partial review. Emphasis has been laid on the expression ‘or’ in the Rule 23(1) to argue that the *suo moto* powers of the Authority are limited and cannot be clubbed with an application driven initiation. The Authority notes that the essence of the said provision in Rule 23(1) is the ‘positive information’. The Rule nowhere prohibits use of positive information provided by an interested party to self-initiate a review. If the Authority is in possession of a positive information, even if it emerges from an application of an interested party, which warrants a

review it cannot close its eyes and restricts the review to what has been requested, as the Rule casts a positive obligation on the Authority to review the need for continued imposition of the measure from time to time. Therefore, the arguments of the interested parties that the review should not have covered the countries other than Iran, since the Domestic Industry requested for a review with respect to that country only, does not appear to be valid.

51. Third question, which has been raised by the interested parties, is the scope of a mid-term review and power of the Authority to extend the duty as a result of a mid-term review. It has been argued that the possible outcomes, of a mid-term review under Rule 23, are either the revocation of the duties or the modification of the level of duties for the remaining time of the 5-year period of the duty notification against which the review petition has been filed, if the Authority agrees with the contentions of the interested parties.
52. In the instant case, the basic ground for which the review was sought by the Domestic Industry was that factor cost for production of the subject goods have changed substantially leading to a change in the injury margin with respect to Iran. The Authority notes that injury margin is a function of Non-injurious price and landed values. It has not been argued by any interested party that only the landed value of imports from Iran has undergone change. The ground brought forward was that both the NIP and the landed values have changed. If the NIP undergoes change then it affects the injury margin for all exporters from the subject countries. Further the import prices from all countries have also undergone changes. Therefore, it could not have been held that the change circumstances, in this situation, are with regard to only one country, though the applicants argued that way. Further, if the factor cost has undergone changes it may not be restricted to one set of industries. If the cost and prices have changed leading to changes in the injury margin, as argued by the applicant, it is likely to impact the dumping margins also. Since the duties have been imposed following the lesser rules principles it is essential to determine the dumping margins also, in this particular situation, to apply lesser duty, unless there is evidence on record to show that there is no significant change in the level of dumping margins. No interested party has brought this fact on record. On the other hand, the exporters from Iran have questioned the exclusion of Japan from the review and have argued that exclusion of any country in a review would vitiate the injury investigation.
53. In view of the above, the Authority holds that the comprehensive review initiated, covering all aspects of the measure in force, is in order and the objections raised by various interested parties are not valid.
54. The Domestic Industry had filed a request to withdraw the application for present investigation view of delay in completion of investigation thereby the balance period remaining for MTR to be effective is very short and Customs may not implement the outcome of the investigation as has already happened on an earlier occasion in this product. Further, the application was made for review only against Iran however, there are some legal and structural changes in the ownership/sales structure of Saudi group in the post investigation period of the present review petition having direct impact on Anti-Dumping

Duties on Saudi Arabia. The detailed investigation is required and can only be covered in SSR. The Authority noted their request and has decided that the petition has already been investigated in detail as also explained in earlier paragraphs. The authority therefore decided not to accede to withdrawal request and proceed with issuance of findings of this investigation.

G. METHODOLOGY AND DETERMINATION OF NORMAL VALUE, EXPORT PRICE & DUMPING MARGIN

55. The following groups of producers and exporters of the subject goods originating in or exported from the Iran & Saudi Arabia have filed questionnaire response to this mid-term review:

- a) M/s Aravand Petrochemical Company, a producer of the subject goods, along with its related exporter M/s Petrochemical Commercial Co., Iran; and
- b) M/s Saudi Petrochemical Company (SADAF), a producer, along with its related exporters and intermediate traders i.e., M/s Saudi Basic Industries Corporation (SABIC) (Exporter), M/s Shell Trading (M.E.) Pvt. Ltd (STME) (Trader), Dubai; M/s Metron Middle East FZE, (Trader), Dubai; M/s Petrochem Middle East FZE, (Trader), Dubai

IRAN

56. There are two major producers of the subject goods in Iran during the period of investigation, namely, M/s Arvand Petrochemical Company (APC); and M/s Bander Imam Petrochemical Company (BIPC). Both the companies are subsidiaries of National Petrochemical Co. (NPC). Both the Companies have exported during the POI through their affiliated exporter M/s Petrochemical Corporation (PCC), which is a commercial arm of NPC.

57. The Authority notes that while APC and PCC have filed complete questionnaire response, however, BIPC has not filed a questionnaire response. Further, It has been submitted that Bander Imam Petrochemical Company (BIPC) is not in production due to directions for closure by Iran authorities on account of environmental issues as they were producing the subject goods using Mercury Cell technology. Though a small quantity of the goods produced by BIPC was sold in the domestic markets as well as some were exported by M/s Petrochemical Corporation (PCC) and M/s Metron Middle East FZE, (Trader) during the POI. However, those quantities are nominal and BIPC has since then stopped production. Thus, the Company has not filed any response. As per App-2, a total of *** MT of subject goods have been exported to India during the POI, out of which only *** MT were procured from BIPC, which works out to only about ***% during the POI. Since BIPC has not filed questionnaire response, in view of the position explained above, this company has been treated as non-cooperative.

Normal Value

58. The cost of production of M/s Arvand Petrochemical Company (APC) was determined on the basis of data submitted by the Company and duly verified. The domestic sale transactions have been subjected to ordinary course of trade test and only ***% of domestic sales were found to be profitable sales. Accordingly, ex-works normal value has been determined on the basis of profitable transactions to unrelated customers. The sale is on exfactory basis and adjustment has been given only on account of commission paid.

Export Price

59. M/s Arvand has exported the subject goods to India during POI through PCC, Iran. The exports are on CNF basis and adjustments were made on account of ocean freight and credit cost. Adjustment on account of SGA expense of the exporter has also been made to arrive at the ex-factory export price. In post POI some quantities have been exported to India through M/s Metron Middle East FZE, as sister concern of M/s Petrochem Middle East FZE, Dubai. Accordingly, the net ex-works export price during POI for the subject goods is determined as below after making duly verified adjustments.

Dumping Margin

Producer	Exporter	NEP USD/MT	NV USD/MT	DM USD/MT	DM (%)	DM Range
Arvand Petrochemicals	Petrochemical commercial company	***	***	***	***	(15)-(5)
Others	Any	***	***	***	***	1-10

SAUDI ARABIA

M/s Saudi Petrochemical Company (SADAF); M/s Saudi Basic Industries Corporation (SABIC), Saudi Arabia, M/s Shell Trading (ME) Pvt. Ltd. (STME), Dubai, UAE and M/s Petrochem Middle East FZE, Dubai

Normal Value

60. M/s Saudi Petrochemical Company (SADAF), a producer of the subject goods, is a joint venture between SABIC and Shell Chemicals Arabia LLC (SHELL). The product concerned produced by SADAF are solely sold through SABIC in the Domestic market and exports are made by SABIC and STME. During the POI, the exports to India have been made only by STME. SADAF, SABIC and STME submitted the information in the manner prescribed in the Exporters Questionnaire. SADAF has entered into a marketing agreement with SABIC and STME.

61. SABIC submitted details of sales within the Kingdom of Saudi Arabia along with the details of logistics expenses incurred on the domestic sales of the goods. From the sale price, adjustments were made on account of direct selling expenses and marketing fees to arrive at the normal value. The adjustments claimed have been allowed by the Authority. Accordingly, the normal value is determined as mentioned below in dumping margin table.

Export Price

62. M/s Shell Trading (ME) Pvt. Ltd. (STME) has exported only one consignment of subject goods to India during POI through M/s. Petrochem Middle East FZE, Dubai on FOB basis. From the FOB export price, adjustments were made on account of credit cost, bank charges and marketing fees to arrive at the ex-factory export price. Accordingly, the ex-factory export price is determined as below:

Dumping Margin

Producer	Exporter/ Trader	NEP USD/MT	NV USD/MT	DM USD/MT	DM %	DM Range
Saudi Petrochemical Co.	SHELL trading (M.E) Pvt. Ltd. UAE & Petrochem Middle East FZE, Dubai	***	***	***	***	1-10
Any other	Any other	***	***	***	***	1-10

USA

63. No response has been filed by any producer or exporter in USA. Accordingly, the degree and extent of current dumping, in the changed circumstances, have been determined based on the best available information with the Authority.

H. METHODOLOGY FOR INJURY DETERMINATION

Submissions by the Interested Parties

64. The various submissions filed by interested parties have been examined and are summarised as below:

- a) The Petitioner initially claimed in the Petition that the injury suffered by the Domestic Industry, *quod non*, was caused by imports of the subject goods originating in Iran. In addition, the Petition was limited to Iran and did not mention any other country. The injury suffered, *quod non*, is caused by the change in circumstances relating to the cost of production, cost of utilities and the landed value of caustic soda originating in Iran that led to an increase in the injury margin.

- b) The fact that imports originating in Saudi Arabia are now covered by the mid-term review cannot change the causal link between the injury, *quod non*, and the imports from Iran.
- c) In the present review, the Domestic Industry has itself submitted that injury suffered by the Domestic Industry is due to increased imports from Iran, therefore, no injury is being caused by imports of subject goods from Saudi Arabia.
- d) It should be noted that producer in Saudi Arabia were found not dumping the subject goods during the previous review and accordingly were awarded zero rate of antidumping duty. Even after getting the zero rate of antidumping duty, imports from Saudi Arabia have fallen to almost zero level and imports from Iran have increased substantially. Despite the zero duty imposed on imports originating in Saudi Arabia the volume of imports has steadily decreased. Therefore, there is no requirement of continuing the antidumping duty on imports of subject goods from Saudi Arabia.
- e) In paragraph 7 of the notice of initiation, the Designated Authority decided that the review would not cover the imports from Japan since imports from Japan did not attract any duty in the earlier duty notification. We request the Designated Authority to follow the same reasoning and to terminate the investigation against STME insofar as the imports from STME did not attract any duty in the earlier duty notification.

Submissions made by the Domestic Industry

65. The submissions of the Domestic Industry has been summarised as below:

- a) Imports from subject countries have increased substantially in absolute terms and in relation to consumption.
- b) Subject imports are positively undercutting the prices of the Domestic Industry.
- c) Imports from subject countries –Iran and Saudi Arabia are under selling the goods sold by the Domestic Industry and are preventing the price increase.
- d) Inventory level with the Domestic Industry has increased significantly over the injury period.
- e) Performance of the Domestic Industry has remained adverse in respect of sales, market share, profits, cash profits and return on investments.
- f) Although there are no imports from USA, but revocation of duties would lead to recurrence of dumping and injury.
- g) Thus, it would be seen that the Domestic Industry has suffered continued injury. Situation of the Domestic Industry is clearly fragile and the anti-dumping duties have not been able to have the desired an intended effect on the performance of the Domestic Industry.

EXAMINATION BY THE AUTHORITY

66. The Authority has taken note of the arguments and counter-arguments of the interested parties on injury. The issues raised by various interested parties have been dealt with in the relevant paras of this Notification.

67. The injury analysis made by the Authority hereunder *ipso facto* addresses the various submissions made by the interested parties.

(i) **Demand and market share**

68. For the purpose of assessment of the domestic consumption/demand of the subject goods, the sales volume of the Domestic Industry and other Indian producers have been added to the total imports into India and the same has been summarized below. The caustic soda is manufactured in two forms, lye as well as flake and both the forms are covered within the scope of the subject goods in the original as well as present review investigation, however, It has been noted that import of caustic soda in lye form only is taking place from the subject countries.

Particulars	UOM	2011-12	2012- 13	2013-14	2014-15	POI
Sales of Domestic Industry	MT	6,34,566	6,19,587	6,69,179	7,17,897	7,13,926
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>98</i>	<i>105</i>	<i>113</i>	<i>113</i>
Sales of Other Indian producers	MT	18,46,420	18,67,052	18,84,613	19,96,399	19,25,164
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>101</i>	<i>102</i>	<i>108</i>	<i>104</i>
Imports- Subject Countries	MT	65,593	1,73,984	1,30,737	1,36,084	1,54,928
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>265</i>	<i>199</i>	<i>207</i>	<i>236</i>
Imports- Other Countries attracting duties	MT	92,210	83,640	1,04,022	1,97,771	1,53,890
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>91</i>	<i>113</i>	<i>214</i>	<i>167</i>
Imports- Other Countries	MT	35,937	45,863	69,715	72,802	82,659
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>128</i>	<i>194</i>	<i>203</i>	<i>230</i>
Total Demand	MT	26,74,726	27,90,125	28,58,266	31,20,953	30,30,567
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>104</i>	<i>107</i>	<i>117</i>	<i>113</i>
Domestic Industry	%	23.72	22.21	23.41	23.00	23.56
Other Indian Producers	%	69.03	66.92	65.94	63.97	63.52
Indian Producers as a whole	%	92.76	89.12	89.35	86.97	87.08
Subject Countries	%	2.45	6.24	4.57	4.36	5.11
Other Countries attracting duties	%	3.45	3.00	3.64	6.34	5.08
Other Countries	%	1.34	1.64	2.44	2.33	2.73

69. The Authority notes that demand has increased during the POI as compared to the base year. The market share of the Domestic Industry has increased whereas market share of other Indian producers and Indian producers as a whole has decreased during the POI as compared to the base year. The market share of the subject countries has also decreased in the POI as compared to the base year.

Volume Effects of Dumped Imports

(ii) Import Volume and Market Share

70. With regard to the volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India. For the purpose of injury analysis, the Authority has relied on the import data procured from DGCIS. The volume of imports of the subject goods from the subject countries have been analysed as under:

Particulars	UOM	2011-12	2012- 13	2013-14	2014-15	POI
Iran	MT	60,517	94,956	78,656	1,22,933	1,49,024
Saudi Arabia	MT	5,076	79,028	52,081	13,144	5,904
USA	MT	-	-	-	7	-
Imports from Subject Countries	MT	65,593	1,73,984	1,30,737	1,36,084	1,54,928
Import from Other countries	MT	1,28,147	1,29,503	1,73,737	2,70,573	2,36,549
Total Import	MT	1,93,740	3,03,486	3,04,474	4,06,657	3,91,477
Imports Share						
Iran	MT	31.24	31.29	25.83	30.23	38.07
Saudi Arabia	MT	2.62	26.04	17.11	3.23	1.51
USA	MT	-	-	-	0.002	-
Subject Countries	%	33.86	57.33	42.94	33.46	39.58
Other Countries	%	66.14	42.67	57.06	66.54	60.42

71. The Authority notes that the imports from Iran are significant in absolute and percentage terms and have increased in spite of imposition of duties. The imports from Saudi Arabia are nominal and have drastically reduced as compared to the base year. The imports from USA are nil during the POI and rest of the injury period except insignificant imports during 2014-15.

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

72. With regard to the effect of the alleged dumped imports on prices, the Designated Authority is required to consider whether there has been a significant price undercutting by the dumped imports as compared with the price of the like products in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. The impact on the prices of the Domestic Industry on account of the alleged dumped imports from the subject countries has been examined with reference to the price undercutting, price underselling, price suppression and price depression, if any. For the purpose of this analysis the cost of production, Net Sales Realization (NSR) and the Non-injurious Price (NIP) of the Domestic Industry have been compared with the landed cost of imports from the subject countries.

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

73. The price suppression and price depression effect of the dumped imports has also been examined with reference to the cost of production, net sales realization and the landed values of the subject goods from the subject countries in relation to injury period including POI I.

Particulars	UOM	2011-12	2012- 13	2013-14	2014-15	POI
Landed price of Subject Imports	Rs./MT	22,998	26,232	23,418	23,933	24,767
<i>Trend</i>	<i>Indexed</i>	100	114	102	104	108
Cost of Sales	Rs./MT	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	123	134	141	133
Selling Price	Rs./MT	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	125	113	111	109

74. From the above information, obtained from DGCI&S data, the Authority notes that the landed price of the imports from the subject countries has decreased during the POI as compared to the base year. Further, the cost of sales of the Domestic Industry has increased during the POI as compared to the base year, however, selling price has declined. Thus imports have depressed the domestic prices in the market.

(b) Price Undercutting

75. The price undercutting has been calculated by comparing the net sales realisation of the Domestic Industry with the landed value of imports. The landed value of each responding exporter has been calculated as per their data and for others category, landed price has been computed by adding applicable basic customs duty and education cess to the Assessable value as per DGCI& S data.

Price Undercutting	UOM	2011-12	2012-13	2013-14	2014-15	POI
Landed price of imports	Rs./MT	22,998	26,232	23,418	23,933	24,767
Net Sales Realisation	Rs./MT	***	***	***	***	***
Price Undercutting	Rs./MT	***	***	***	***	***
Price Undercutting	%	***	***	***	***	***
Price Undercutting	% Range	1-10	5 - 15	5 - 15	5 - 15	1 - 10

76. The Authority notes that during the POI, the price undercutting effect of the alleged dumped imports is positive in respect of subject countries as a whole.

(c) Price Underselling

77. For the purpose of price underselling the landed prices of the imports from subject countries have been compared with the Non-injurious price (NIP) of the Domestic Industry.

Particulars	Landed Value US\$/MT	Non Injurious Price US\$/MT	Price Underselling US\$/MT	Price Underselling %	Price Underselling % Range
Iran	***	***	***	***	(5) –(5)

Saudi Arabia	***	***	***	***	5-15
USA	-	-	-	-	-

78. The Authority notes that the price underselling is negative for Iran during the POI and for Saudi Arabia, the same is positive. Price underselling for USA is nil on account of no imports of the subject goods from USA.

Examination of other Economic Parameters of Domestic Industry

Production, Capacity, Sales and Capacity Utilization

79. The Production, Capacity and Capacity Utilization details are as follows:

Particulars	UOM	2011-12	2012- 13	2013-14	2014-15	POI
Installed capacity	MT	11,99,046	12,02,442	12,98,593	13,97,337	14,22,975
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>100</i>	<i>108</i>	<i>117</i>	<i>119</i>
Production	MT	3,73,508	3,40,770	3,99,004	5,32,603	5,89,384
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>91</i>	<i>107</i>	<i>143</i>	<i>158</i>
Capacity Utilization	%	31.15	28.34	30.73	38.12	41.42
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>91</i>	<i>99</i>	<i>122</i>	<i>133</i>
Domestic Sales	MT	6,34,566	6,19,587	6,69,179	7,17,897	7,13,926
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>98</i>	<i>105</i>	<i>113</i>	<i>113</i>
Demand	MT	26,74,726	27,90,125	28,58,266	31,20,953	30,30,567
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>104</i>	<i>107</i>	<i>117</i>	<i>113</i>

80. From the above information, the Authority notes that the capacity of production of the Domestic Industry has increased during the injury period including the POI as also the demand in the domestic market. Further, both sales and capacity utilization have also increased during the POI as compared to the base year in line with increase in demand.

Inventories:

81. Data relating to inventories shows as follows:

Particulars	UOM	2011-12	2012- 13	2013-14	2014-15	POI
Opening	MT	***	***	***	***	***
Closing	MT	***	***	***	***	***
Average	MT	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>197</i>	<i>231</i>	<i>245</i>	<i>263</i>

It is noted that average inventories have increased considerably during the POI as compared to the earlier years.

Profits and actual and potential effects on the cash flow

82. With regard to Profit/Loss and cash flow, it is noted that the profitability of Domestic Industry in terms of profit before tax and interest and cash profit and ROI has remarkably decreased in the POI as compared to base year.

Particulars	Unit	2011-12	2012- 13	2013-14	2014-15	POI
Cost of Sales	Rs/MT	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>123</i>	<i>134</i>	<i>141</i>	<i>133</i>
Selling Price	Rs/MT	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>125</i>	<i>113</i>	<i>111</i>	<i>109</i>
Profit/Loss	Rs/MT	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>135</i>	<i>23</i>	<i>(20)</i>	<i>2</i>
Profit/Loss	Rs.Lacs	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>132</i>	<i>24</i>	<i>(23)</i>	<i>2</i>
PBIT	Rs.Lacs	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>152</i>	<i>109</i>	<i>72</i>	<i>83</i>
Cash Profit	Rs.Lacs	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>140</i>	<i>89</i>	<i>51</i>	<i>57</i>
Return of Investment	%	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>140</i>	<i>88</i>	<i>53</i>	<i>65</i>

Employment, wages and productivity

83. The data relating to employment, wages and productivity show as follows:

Particulars	UOM	2011-12	2012- 13	2013-14	2014-15	POI
Productivity per employee	MT	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>117</i>	<i>165</i>	<i>166</i>	<i>184</i>
Employees	Nos.	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>78</i>	<i>65</i>	<i>86</i>	<i>86</i>
Wages	Rs. Lacs	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>117</i>	<i>139</i>	<i>121</i>	<i>100</i>

84. It is noted that there was increase in the number of employees as well as productivity during the POI as compared to the base year. Wages have increased significantly during the POI as compared to the base year.

Magnitude of Dumping and Injury Margin

85. On the basis of data furnished by the Co-operative Producers and exporters, and verified by the Authority, summary of dumping margin and injury margin is as below:

Producer	Exporter	NEP USD /DMT	NV USD /DMT	DM USD /DMT	DM (%)	DM Range (%)	NIP USD /DMT	Landed Value USD /DMT	IM USD /DMT	IM (%)	IM Range (%)
Iran											
Arvand Petro chemicals	Petro Chemical commerc company	***	***	***	***	(10)-(15)	***	***	***	***	(5) -5
Others	Any	***	***	***	***	1-10	***	***	***	***	10-20
Saudi Arabia											
Saudi Petro- chemical Co	SHELL trading (ME) Pvt. Ltd. UAE & Petrochem Middle East FZE, Dubai	***	***	***	***	1 -10	***	***	***	***	5-15
Any other	Any other	***	***	***	***	1-10	***	***	***	***	5-15

I. LIKELIHOOD ANALYSIS

86. The Customs Tariff Act and the AD Rules supra, as amended from time to time, require the Designated Authority to review, from time to time, the need for continued imposition of anti-dumping duty where warranted, on its own initiative or upon request by any interested party who submits positive information substantiating the need for such a review, and a reasonable period of time has elapsed since the imposition of the definitive anti-dumping duty. The review inter alia requires an examination whether the injury to the domestic industry is likely to continue or recur if the duties are revoked or varied. The Authority has examined whether the injury to the domestic industry is likely to continue or recur if the duties are revoked or varied as provided herein below.

I. Volume of Imports during POI & Post POI

87. In order to examine, the likelihood of injury to the domestic industry if the current duties are revoked or varied on the imports of subject goods from the subject countries, the Authority has undertaken analysis of the volume of exports of the subject goods to India during the post-POI period as well. On the basis of DGCI&S data, the Authority notes that the volume of the exports from subject countries to India during the POI (October, 2014-September, 2015) was 1,54,928 MT. The volume of exports during 2015-16 increased to 2,16,500 MT as against 1,36,077 MT during 2014-15. These exports are from Iran and Saudi Arabia only, USA showing almost nil exports.

Particulars	UOM	2011-12	2012- 13	2013-14	2014-15	POI (Oct' 14- Sept' 15)	Post POI -6 months (Oct' 15- Mar' 16)	2015-16
Iran	MT	60,517	94,956	78,656	1,22,933	1,49,024	38,791	1,91,464

Saudi Arabia	MT	5,076	79,028	52,081	13,144	5,904	18,408	25,036
USA	MT	-	-	-	7	-		-
Total	MT	65,593	173,984	130,737	136,077	154,928	57,199	216,500

II. Excess and Surplus Production Capacity

Saudi Arabia

88. The producers of Saudi Arabia have existing capacities of 670,000 MT. The current production is 429,322 MT as against domestic consumption of 211,107 MT only. This indicates that the producers have excess capacities and surplus quantities with them.

Iran

89. The Iranian producers have a combined capacity of *** MT as against domestic consumption of only *** MT. Further, the volume of exports from Iran to rest of the world is *** MT only.

90. The domestic industry has contended that Iranian producers are facing very peculiar market situation where they are not able to export to a large number of countries because of alleged restrictions on imports from Iran by a number of countries globally. According to the domestic industry, this has led to a situation where the Iranian exporters are willing to sell the product at a price lower than the market prices.

91. It has been noted that only ***% of domestic sales were found profitable. The ***% loss making domestic transactions are at a much lower price as compared to the price at which exports are being made to India, indicating their ability to sell good at significantly lower prices. The producer/exporter can easily export more quantities and still being more remunerative than the domestic sales. In view of the inability of the Iranian producers to utilize their capacities by exporting to third countries, there is a likelihood of that Iranian producers may intensify the exports to India in the event of withdrawal of anti-dumping duties.

III. Inventories of Exporters

92. The producer of Saudi Arabia has substantial inventories which have increased during POI as compared to base year. The producers of Iran also has significant inventories which have increased during entire investigation period and POI.

IV. Export orientation of producers

93. The exports from subject countries to third countries were analysed and compared to exports made to India as per the documents given by the exporters.

County	Exports to 3 rd Countries during POI		Exports to India during POI	
	Quantity MT	Export Price USD/ MT	Quantity MT	Export Price to India USD/ MT
Iran	***	***	***	***
Saudi Arabia	***	***	***	***

94. Iran has exported the product to third countries at an export price which is lower than the export price of the subject goods to India during the investigation period. This indicated that Iran can export subject goods at these prices which will be detrimental to the health of the domestic Industry, creating a likelihood scenario of increased dumping causing injury.

USA

95. None of the exporters/producers from USA have filed questionnaire response. DGCI&S import data also does not show any imports of caustic soda from USA. The US customs data provided by the petitioner with regard to exports from USA to various countries globally and verified by the DA from WTO data shows significant exports of the product from USA to a large number of countries globally. Analysis of these third country exports from USA to various countries globally show that the US producers have exported the product to a number of countries at a price which is below the normal value of the product and NIP of the domestic industry. The authority considered the FOB price and determined the likely import prices into India based on these third country exports. It is seen that export from US to Brazil alone amounted to 18,92,193 MT at a FOB price of US\$ 275 PMT, thus leading to a significantly positive dumping and injury margin. Further, analysis of country by country exports further showed a cumulative exports of 29,03,508 MT from USA to various countries globally where the dumping margin and injury margin are positive, whereas a gross volume of 4705,412 MT has been exported from USA to various countries at an average price of US\$ 336. It is, thus concluded that the producers in US are likely to export the product in Indian market at a price below normal value and NIP of the domestic industry.

V. Price attractiveness of Indian market

96. The Subject imports are undercutting the prices of the Domestic Industry. It is therefore suggested by the petitioners that with the cessation of anti-dumping duty, the Indian prices would be too attractive for the producers/exporters in the subject countries. 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.

J. CONCLUSION ON MATERIAL INJURY

97. After examination of various parameters, it is noted that during POI, while the capacity of production has increased throughout the injury period including the POI, the

performance of the Domestic Industry has improved in terms of production and sales volumes. However, profit, cash profit and return on investment has declined. The inventories have increased considerably. Further, landed price of imports from the subject countries are below the net sales realizations of the domestic industry during the POI. While the price undercutting is positive for the subject countries, however, underselling effects are marginally negative for Iran but positive for Saudi Arabia. The alleged dumped imports are causing price depression effects during POI. Thus, the Authority notes the economic health of the Domestic Industry during POI exhibit continued material injury.

K. CAUSAL LINK

98. Having examined the existence of continued injury, volume and price effects of dumped imports on the prices of the domestic industry, in terms of its price undercutting and price suppression and depression effects, other indicative parameters listed under the Indian Rules and Agreement on Anti-Dumping have been examined by the Authority to see whether any other factor, other than the dumped imports could have contributed to injury to the domestic industry, as follows

- a) Imports from third countries- The imports of the product under consideration from China PR, Korea RP, Chinese Taipei, Norway and Thailand are already attracting antidumping duties. Further, there are significant imports from Japan and Qatar with regard to which the Authority is undertaking a separate investigation. Further the Designated Authority is now conducting SSR investigation in respect of Chinese Taipei.
- b) Trend in Demand-The demand has increased over the injury period with marginal decline in the Period of Investigation. However, the dumped imports have increased in the Period of Investigation as compared to the previous year which is causing injury to the Domestic Industry.
- c) Performance of other products- Material injury is being caused to the Domestic Industry because of the dumped imports. Performance of other products being produced and sold by the Domestic Industry has no impact over the reported performance of the subject product. Further, injury, if any, due to other factors has been segregated by the Petitioner
- d) Changes in the pattern of consumption: - The pattern of consumption with regard to the product under consideration has not undergone any change. Therefore, changes in the pattern of consumption cannot be considered to have caused injury to the Domestic Industry.
- e) Trade restrictive practices of and competition between the foreign and domestic producers: - There is no trade restrictive practice, which could have contributed to the injury to the Domestic Industry.

- f) Developments in technology: - Technology for production of the product concerned has not undergone any change. Thus, developments in technology cannot be regarded as a factor causing injury to the domestic injury.
- g) Export performance: - The claimed injury to the Domestic Industry is solely on account of domestic operations. The Domestic Industry has made some exports throughout the injury period. However this factor cannot be said to have caused injury to the Domestic Injury.
- h) Productivity: - The claimed injury to the Domestic Industry is not due to deterioration in productivity of the Domestic Industry.

L. POST DISCLOSURE COMMENTS

99. The post disclosure submissions have been received from the interested parties. The issues raised therein have already been raised earlier during the investigation and also addressed appropriately. However, for the sake of clarity the submissions by the interested parties are being examined as below:

Submission made by the Domestic Industry

100. The submissions have been summarized as below:

- a) The investigation may be terminated in respect of imports from Saudi Arabia and USA, if the Authority chose to initiate *suomoto* investigation upon receipt of “positive information” the same information holds good for other cases on caustic soda and therefore the Authority should have accordingly initiated mid-term review investigations against all such countries attracting ADD on imports of caustic soda under various separate findings.
- b) Aravand Petrochemical (APC) and BIPC are related producers, BIPC has not filed questionnaire response despite having produced and exported subject goods, APC and BIPC have exported goods through PCC which is also an affiliated party. Thus, it becomes of utmost importance for BIPC to provide information. BIPC has exported goods through PCC as well as M/s Metron Middle East FZE, (Trader) PCC has responded, M/s Metron Middle East FZE has not responded. It is incorrect to conclude that BIPC has exported only small amount of subject goods merely on the basis of response filed by trader, PCC, thus, in view of incomplete response from the complete value chain, the response of APC should be rejected.
- c) There exist huge surplus capacities with the subject countries especially in Iran and Saudi Arabia, leading to significant idle capacity with the producers in the subject countries resulting in likelihood scenario for intensifying exports.
- d) The non-injurious price determined is too low resulting into insufficient injury margin. The Authority has not taken into account sufficient return on investment.
- e) The injury margin determined is too low.

Submission made by other interested parties/Producers/Exporters/Importers

101. The submissions have been summarized as below:

- a) The injury margin as seen in terms of price underselling have been negative during the POI and the domestic industry failed to prove their claims and apparent negative injury margin in the present case.
- b) Currently, there is only a negligible amount of anti-dumping duty against APC and PCC and if they had to intensify its exports, they could have done so by easily absorbing such duties already. Mere unutilized capacity, does not show any potential increase in exports in the event of withdrawal of duties in case of APC and PCC.
- c) The decision to consider four previous years data plus POI data for injury analysis is in clear deviation from the practice of the Authority
- d) The disclosure statement clearly shows that the performance of the domestic industry has been excellent in terms of various injury parameters.
- e) Price underselling from Iran have been negative and injury to the domestic industry has not been on account of Iranian exports and at the best they could be because of imports from Japan and Qatar. The justification for exclusion of Japan goes squarely against the original finding against Japan.
- f) M/s Petrochem Middle East FZE has been given an individual margin only for its sales from Saudi Arabia, whereas for Iran origin sales (Arvand Petrochemical Company), the Exporter has been completely excluded from the margin calculation. The Exporter should be included in the appropriate table for individual dumping margin (and injury margin) with Arvand Petrochemical Company.
- g) Due to the existence of negative price underselling, it can be established that the imports from Iran are not injuring the Petitioner as non-injurious price is lower than the landed value.
- h) The Authority has failed to analyse the impact of chlorine on caustic soda.
- i) The Authority proceeded to initiate the present mid-term review investigation which included Saudi Arabia and USA as Subject Countries even when the Petitioner had neither provided any information nor requested for review of anti-dumping duties on imports from Saudi Arabia and USA.
- j) Since the initiation is based on the application made by the Petitioner, the investigation can also be terminated on the basis of a withdrawal letter filed by them. The withdrawal letter of the Petitioner is not available in the public file. Without the Petitioner's letter, the interested parties are unable to analyse the same and provide meaningful comments. Not placing critical information such as this letter in the public file is in violation of the interested parties' right to be heard.
- k) The present investigation is ill-timed and further the application for the initiation of a mid-term review was withdrawn by the domestic industry, the Designated Authority decided on its own to continue the investigation decision of the Designated Authority will inevitably lead to a deadlock situation where the final findings will not be implemented by the Ministry of Finance due to the time constraint as it happened in the previous mid-term review in 2011.

- l) There is a sharp increase in capacity and production and sales, it is difficult to understand on what basis, the Petitioners' are claiming injury. The likelihood of substantially increased importation cannot be established.
- m) The Authority has not explained how such negligible imports are causing injury to the domestic industry. The imports from Saudi Arabia as a percentage of the total demand constituted a mere 0.02% in the POI.
- n) The essential facts in the disclosure statement do not demonstrate that there is a causal link between alleged dumping and injury to the domestic industry. Production and sales have improved significantly during the injury analysis period. Further, there is no price suppression and price depression in the facts of this case.

Examination by the Authority

102. It is noted that the issues raised at post disclosure stage have already been examined by the Authority in above relevant paragraphs, however for the sake of the clarity of the submissions they are addressed as below:

- a) With respect to rejection of response of APC, Iran, the Authority noted that APC and PCC have filed complete questionnaire response, however, BIPC has not filed a questionnaire response. BIPC has exported some quantity of the subject goods to India which are very small as compared to the total quantity of the co-operative producer. Since BIPC has not filed questionnaire response, the Authority has treated this company as non-cooperative but in view of the position explained above the producer and majority exporter from Iran have been considered co-operative. M/s Petrochem Middle East FZE, has been excluded from consideration in case of Iran because there is no exports by them during POI, as also confirmed by the producer viz. Arvand Petrochemical Company, Iran.
- b) With regard to the timing of the present investigation, the power of the Authority to extend the review *suo moto* to other countries and exclusion of Japan, a detailed explanation and rationale has been given in earlier paragraphs of this finding.
- c) The request of withdrawal of the application by the Domestic Industry was noted, however, the Authority considers that detailed proceedings have already been undertaken in the present review investigation and decided that it is more appropriate to issue the findings of this investigation.
- d) A detailed likelihood analysis required under Rule 23(1) has been carried out in terms of provisions mentioned in Annexure II of Rule 9(2) and also as directed by Hon'ble High Court of Ahmedabad in another mid-term review petition. The conclusions drawn have been stated under the relevant paragraphs of this finding.
- e) Annexure III of customs notification no. 15/2011– Customs (N.T.) dated 1st March, 2011 has laid down the principles for determination of Non-Injurious price. The NIP for

the instant case has been determined following the said rule. The Chlorine is treated as a by-product and credit has been given based on its net realisation value.

M. CONCLUSIONS

103. The authority notes that the present investigation being a midterm review investigation, changes in circumstances must be of lasting nature in order to vary the duty. While the petitioner contended that the anti-dumping duties are required to be increased in view of increase in dumping margin and injury margin, the investigation has not shown that the dumping and injury margins have increased.
104. The authority notes that the domestic industry filed the present petition requesting enhancement in the quantum of anti-dumping duty in respect of imports from Iran in view of significant increase in imports from Iran, low quantum of anti-dumping duties and increase in its cost of production. Further, the authority extended the investigation to imports from Saudi Arabia and USA considering that the request for the domestic industry was on the basis of increase in the cost of production in India and therefore the same grounds hold good in respect of imports from Saudi Arabia and US also.
105. As far as Iran is concerned, the investigation has shown that the dumping margin and injury margin in respect of exports from APC through PCC and Petrochem Middle-east (FZE), Dubai, Iran is negative, therefore no case is made out for enhancement in the quantum of anti-dumping duties.
106. As regards Saudi Arabia, the investigation has shown that the dumping margin and injury margin in respect of actual imports from Saudi Arabia are positive. Further, goods produced by SADAF and exported by STME and Petrochem Middle-east (FZE), Dubai were earlier subjected to nil rate of antidumping duty, while the goods produced by SADAF and exported by SABIC or any other exporter were subjected to antidumping duty @ US\$130.60/DMT. The exports from SADAF, Saudi Arabia to India through STME and Petrochem Middle-east (FZE), Dubai are being made at a price which is below normal value and NIP of the domestic industry. Thus, it is established that there is a need for modification in the quantum of anti-dumping duty.
107. As regards USA, no response has been filed by any producer/exporter, the individual dumping and injury margin could not be calculated, however, the likelihood analysis indicates that withdrawal of duty against USA may cause exports from USA into India at dumped prices causing injury to the Domestic Industry.
108. Examination of various injury parameters relating to domestic industry shows that the domestic industry has suffered injury on some parameters. The Domestic Industry had filed a petition for increased injury and consequent enhancement of current antidumping duty against Iran, however, the data from the responding producer/exporter in Iran clearly indicates absence of any dumping and injury. There are some indicators of likelihood but the same are not sufficient to establish injury in case of co-operative exporters from Iran.

The data from Saudi Arabia shows presence of dumping and injury. In absence of response from USA the duties as recommended earlier are being continued.

Indian Industry’s Interest And Other Issues

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

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

N. RECOMMENDATIONS

111.The Authority notes that the review investigation was initiated and notified to all interested parties and adequate opportunity was given to the exporters, importers and other interested parties to provide positive information on the aspects of dumping, injury and causal link. Having initiated and conducted the investigation into dumping, injury and the causal link thereof in terms of the AD Rules, the Authority considers it necessary to recommend imposition of definitive anti-dumping duty on imports of subject goods from the subject countries in the form and manner described hereunder.

112.Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of definitive anti-dumping duty equal to the lesser of margin of dumping and margin of injury, from the date of notification to be issued in this regard by the Central Government, in modification of Customs Notification No. 49/2012 dated 26th November, 2012. Accordingly, the antidumping duty equal to the amount indicated in Col No.9 of the table below is recommended to be imposed on all imports of the subject goods originating in or exported from the subject countries.

Duty Table									
Sr. No	Tariff Item*	Description of Goods	Specification	Country of Origin	Country of Export	Producer	Exporter	Amount (in USD)	UOM
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1.	281511 281512	Caustic Soda	Any Grade	Iran	Iran	Arvand Petrochemicals	Petro Chemical commercial company	Nil	DMT

2	281511 281512	Caustic Soda	Any Grade	Iran	Iran	Any combination other than Sr No. 1 above		9.75	DMT
3	281511 281512	Caustic Soda	Any Grade	Iran	Any country other than the subject countries	Any	Any	9.75	DMT
4	281511 281512	Caustic Soda	Any Grade	Any country other than the subject countries	Iran	Any	Any	9.75	DMT
5	281511 281512	Caustic Soda	Any Grade	Saudi Arabia	Saudi Arabia	Saudi Petro- chemical Co. (SADAF)	SHELL trading (ME) Pvt. Ltd., UAE and Petrochem Middle East FZE, Dubai	16.24	DMT
6	281511 281512	Caustic Soda	Any Grade	Saudi Arabia	Saudi Arabia	Any combination other than Sr No. 5 above		16.24	DMT
7	281511 281512	Caustic Soda	Any Grade	Saudi Arabia	Any country other than the subject countries	Any	Any	16.24	DMT
8	281511 281512	Caustic Soda	Any Grade	Any country other than the subject countries	Saudi Arabia	Any	Any	16.24	DMT
9	281511 281512	Caustic Soda	Any Grade	USA	USA	Any	Any	55.96	DMT
10	281511 281512	Caustic Soda	Any Grade	USA	Any country other than the subject countries	Any	Any	55.96	DMT
11	281511 281512	Caustic Soda	Any Grade	Any country other than the subject countries	USA	Any	Any	55.96	DMT

*Custom classification is only indicative and the determination of the duty shall be made as per the description of PUC.

113. 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.

(Dr. Inder Jit Singh)
Additional Secretary & Designated Authority