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F. No.15/28/2010-DGAD

Government of India
Ministry of Commerce & Industry
Department of Commerce
(Directorate General of Anti-Dumping & Allied Duties)

Udyog Bhawan, New Delhi

Dated 31st August, 2012

NOTIFICATION

(Final Findings)

Subject: -Final Findings in the Sunset Review of anti dumping duty imposed on import of Caustic Soda from Saudi Arabia, Iran, Japan, United States of America and France.

No 15/28/2010-DGAD:- Having regard to the Customs Tariff Act, 1975 (hereinafter referred to as the Act) as amended from time to time, and the Customs Tariff (Identification, Assessment and Collection of Anti- Dumping Duty on Dumped Articles and for Determination of Injury) Rules 1995 (hereinafter referred to as the Rules or the AD Rules) thereof:

A. Background of the Case

1. Whereas having regard to the Customs Tariff Act, 1975, as amended from time to time (hereinafter referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended from time to time, (hereinafter referred to as the Rules or AD Rules), definitive anti-dumping duty had been imposed vide Notification No. 69/2001-Customs dated 26th June 2001 on import of 'Caustic Soda' (hereinafter referred to as the subject goods) originating in or exported from Saudi Arabia, Iran, Japan, USA and France (hereinafter referred to as the subject countries) falling under sub-heading 2815.
2. Whereas upon a Sunset Review (SSR) undertaken by the Designated Authority (hereinafter referred to as the Authority), the Authority recommended continuation of definitive anti-dumping duty vide its Final Findings Notification No.15/29/2004-DGAD dated 01.08.2006 and whereas the Central Government issued its Notification No. 98/2006-Customs dated 13th September 2006 levying the said duty.

3. Whereas, Alkali Manufacturers' Association of India, on behalf of domestic industry has filed a duly substantiated application before the Authority in accordance with the Act and the AD Rules alleging dumping of 'Caustic Soda' originating in or exported from Saudi Arabia, Iran, Japan, United States of America and France and requested for review and modification and continuation of the anti-dumping duties. The petition in the original case was also filed by Alkali Manufacturers' Association of India on behalf of domestic industry.
4. And, whereupon in accordance with Section 9 A (5) of the Act, read with Rule 23 of AD Rules, the Authority issued a public notice dated 2nd September 2011, published in the Gazette of India, Extraordinary, initiating the Sunset Review investigation to review the need for continued imposition of duties in force on import of Caustic Soda from Saudi Arabia, Iran, Japan, United States of America and France and to examine as to whether the cessation of such duties is likely to lead to continuation or recurrence of dumping and injury.
5. And, whereas the antidumping duty as notified vide Notification No. 98/2006-Customs dated the 13th September, 2006 was extended up to 1st September, 2012 vide Notification 1/2012-Customs (ADD) dated 6th January, 2012 in terms of Section 9(A)(5) of the Act.

B. Procedure:

6. The procedure described below has been followed with regard to the investigation:
 - a. The Authority received a duly substantiated Sunset Review application from Alkali Manufacturers' Association of India on behalf of the domestic industry for review, enhancement and continuation of the duty in force on import of Caustic Soda from Saudi Arabia, Iran, Japan, United States of America and France. The petitioner submitted prima facie evidence in this regard, requesting for review, continuation and enhancement of the anti dumping duty in force.
 - b. The scope of the present review covers all aspects of the previous Notifications.
 - c. The Embassies of the subject countries in New Delhi were informed about the initiation of the investigations in accordance with Rule 6(2).
 - d. The Authority provided copies of the non-confidential version of the application to the known exporters and the Embassies of subject countries in accordance with Rules 6(3) supra. A copy of the non-confidential version of the application was also provided to other interested parties, wherever requested.

e. The Authority forwarded a copy of the public notice to the following known exporters (whose names and addresses were made available to the Authority) and gave them 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):

- i. Saudi Basic Industries Corporation, Saudi Arabia
- ii. Saudi Petrochemical Company, Saudi Arabia
- iii. Shell Trading (ME) Pvt Ltd, Dubai, UAE
- iv. MIDPOINT Chemical Company, USA
- v. US Akzo Chemicals Ltd, USA
- vi. M/s Dow Chemical Co., USA
- vii. Tessenderlo, France
- viii. Tricon Energy, USA
- ix. FMC Industrial Chemicals Group, USA
- x. Chlorpars, Iran
- xi. Aryan Sana Co., Ltd., Iran
- xii. Arvand Petrochemical Company, Iran
- xiii. Behan Chemical Company, Iran
- xiv. National Petrochemical Company, Iran
- xv. PERMA Co. Ltd, Iran
- xvi. Asahi Kasei Chemicals Corporation, Japan

- xvii. Sannou Co., Ltd., Japan
- xviii. PECCO Ltd, Japan
- xix. Sepen De S.A.R.L, France
- xx. Sannou Co.,Ltd, Japan
- xxi. TOSOH, Japan
- xxii. Asahi Glass Company, Ltd, Japan
- xxiii. Kaneka Crop, Japan
- xxiv. Tokuyama Crop., Japan
- xxv. Metaux Speclaux, France
- xxvi. Arkema, France
- xxvii. Chloralp, France

f. Response to exporter's questionnaire were received from the following producers/exporters of the subject goods from the subject countries:

- 1. M/s Arvand Petrochemical Company, Iran
- 2. M/s Petrochemical Commercial Company, Iran
- 3. M/s Petrochem Middle East FZE, Dubai, UAE
- 4. M/s Shell Trading (M.E) Private Ltd, Dubai, UAE
- 5. Saudi Basic Industries Corporation, Saudi Arabia
- 6. Saudi Petrochemical Company, Saudi Arabia

g. The Authority forwarded a copy of the public notice to the following known importers (whose names and addresses were made available to the Authority) of the subject goods in India 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).

- i. Abhay Chemicals Limited

- ii. Albright Wilson Chemicals Limited
- iii. Arvind Mills Limited
- iv. Birla Cellulose Limited
- v. Central Pulp Mills Limited
- vi. Deepak Nitrite Limited
- vii. Godrej Sopas Limited
- viii. Gujarat Narmada Fertilizer & Chemicals Limited
- ix. Gujarat State Fertilizer & Chemicals Limited
- x. Indian Farmer Fertilizer Coop. Limited
- xi. Indian Oil Corporation Limited
- xii. Jaysynth Dyechem Limited
- xiii. Link Pharma Limited
- xiv. Meghmani Organics Limited
- xv. Hindusstan Link & Resins Limited
- xvi. Nirma Limited
- xvii. Rama News Prints & Papers Limited
- xviii. Rubamin Limited
- xix. Sabero Organics Limited
- xx. Torrent Gujarat Biotech Limited
- xxi. Transpek Silox Industries Limited
- xxii. National Aluminium Company Limited
- xxiii. Cynaides and Chemicals Company
- xxiv. Hitsu Industries Limited
- xxv. Adani Exports Limited
- xxvi. Libra Foams
- xxvii. Shri Ramachandra Straw Products Limited
- xxviii. Bilag Industries Pvt Limited
- xxix. Daruala Organics Limited
- xxx. CJ Shah & Co.
- xxxi. Harish Kr & Co.
- xxxii. Hindustan Link & Resin Limited
- xxxiii. Hindustan Lever Limited

- h. In response to the Importers' Questionnaire, one importer M/s Petrochem Middle East (India) Pvt Ltd., India, also filed questionnaire response.
- i. The Authority kept available non-confidential version of the evidence presented by various interested parties in the form of a public file maintained by the

Authority and kept the same open for inspection by the interested parties as per Rule 6(7).

- j. Exporters, producers and other interested parties who have neither responded to the Authority nor supplied information relevant to this investigation have been treated as non-cooperating interested parties by the Authority.
- k. Investigation has been carried out for the period starting from April 1, 2010 to March, 2011 (also referred to as the period of investigation or the POI). The examination of trends in the context of injury analysis covered the period from 2007-2008, 2008-2009, 2009-2010 and the POI.
- l. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of imports of the subject goods for the past three years, including the period of investigations. However, the import volumes from DGCI&S are lower than the volumes as reflected in the secondary source, i.e., IBIS, Mumbai and, therefore, the Authority has considered the import data from secondary source IBIS, Mumbai.
- m. Information was sought from the applicants to determine non-injurious price based on the cost of production and cost to make and sell the subject goods in India on the basis of Generally Accepted Accounting Principles (GAAP) to ascertain whether Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to Domestic Industry.
- n. The Authority held an Oral Hearing on 15.03.2012 to hear the interested parties orally. Some of the interested parties present in the hearing pointed out that the updated information/data of the domestic industry was not made available to them and, therefore, the Authority shall first make the updated information/data of the domestic industry available to them and thereafter, hold the Oral Hearing. The Authority, after verification of their claim, made the updated information/data of the domestic industry available to them and held the Oral Hearing on 23.04.2012 and heard the interested parties orally. The interested parties present at the time of hearing were advised to file written submissions of the views expressed orally and were also given an opportunity to file rejoinder to the views expressed by other interested parties. The written submissions and rejoinders received from interested parties have been considered to the extent considered relevant.
- o. On the spot verification of the data provided by the applicant and exporters was carried out to the extent considered necessary.
- p. In accordance with Rule 16 of the Rules supra, the essential facts were disclosed to known interested parties vide Disclosure Statement dated 23.08.2012. The

comments received on the Disclosure Statement have been duly examined and dealt with in the Final Findings.

q. *** in this Final Findings Notification represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.

r. The US exchange rate for the POI has been taken as Rs. 46.18 = 1 US\$ as per notifications issued by the Ministry of Finance.

C. Product under consideration and like article

7. The product under consideration in the present investigation is Sodium Hydroxide (chemical nomenclature NaOH), commonly known as Caustic Soda (referred to as caustic soda in the present investigation) originating in or exported from Saudi Arabia, Iran, Japan, USA and France. The product under consideration is the same as considered in the original investigation. Caustic soda is an inorganic, soapy, strongly alkaline and odorless chemical and finds application in various fields like manufacture of pulp and paper, newsprint, viscose yarn, staple fibre, 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. 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.

Views of the Domestic Industry

8. The following submissions have been made by the domestic industry with regard to the scope of the product under consideration (PUC) and the like article:
- i. The product under consideration in the present investigation is Caustic Soda of all types generally known as Caustic Soda. It is a soapy, strongly alkaline odourless liquid widely used in diverse industrial sectors, either as a raw material or as an auxiliary chemical. Caustic soda is produced in two forms – lye and solids. Solids can be in the form of flakes, prills, granules or any other form.
 - ii. The scope of product under consideration is caustic soda in all its form. As regards safeguard investigations, the scope of safeguard investigations itself was different, i.e., surge in imports of caustic soda in lye form. This surge happened in lye form of caustic soda and accordingly the safeguard petition was restricted to lye form only.

Views of the exporters/ importers and other opposing interested parties

9. The following submissions have been made by the opposing interested parties with regard to the scope of the product under consideration and the like article:
- i. Chlorine is treated as a co product world-wide. It should be treated as co-product in India in accordance with the principal of cost accounting applicable in India.
 - ii. Significant price difference exists between Caustic Soda Lye and Flake and, therefore, these two should not be treated as like product.
 - iii. Chlorine should be treated as a co-product since operationally and cost wise Chlorine and Caustic Soda are widely regarded as co-products. The electrolytic method of making caustic soda, by using sodium chloride as a raw material, is a co-product process. Relationship of Chlorine and Caustic has also been examined by CESTAT in Alkali Manufacturers Association of India versus Designated Authority.
 - iv. Products are produced and sold under two varieties – flake and lye. The selling price and import prices of the two varieties are significantly different. Since landed price of flakes is twice that of lye, no importer will use flake and thus the two grades cannot be considered as substitutable commodities. Hence separate rate of duty should be determined for these two grades.

Examination by the Authority

10. The present investigation is a sunset review investigation concerning anti dumping duties already in force on imports of Caustic Soda on the basis of recommendations earlier made by the Authority. The Authority notes that the scope of the product under consideration remains the same as that of the original investigation.
11. The Authority notes that there is no significant difference in the subject goods produced by the Indian industry and exported from the subject countries. Even though the product is produced through different process, the subject goods produced by the Indian industry and that imported from subject countries are comparable in terms of characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers are using the two interchangeably. None of the opposing interested parties has raised any objection in this regard. Thus, the subject goods produced by the petitioner companies are being treated by the Authority as like articles to the subject goods imported from the subject countries in accordance with the anti-dumping Rules.
12. With regard to issue of difference in price of the two grades of the product, the Authority has determined separate NIP for lye and flakes. The issue of lye and flake

being like articles was also considered by the CESTAT in the case of Alkali Manufacturers' Association OF India Vs DA and the CESTAT has held that the flake and lye are like articles.

D. Domestic Industry and Standing

13. The application has been filed by Alkali Manufacturers' Association of India on behalf of the domestic producers of Caustic Soda and Gujarat Alkalies & Chemicals Limited, Grasim Industries Limited, Shriram Fertilisers & Chemicals, Aditya Birla Chemicals (India) Limited, DCW Limited, SEIL Chemical Complex and Shriram Alkali & Chemicals have provided all relevant information.

Views of Exporters/importers/other opposing interested parties

14. The following submissions have been made by the opposing interested parties with regard to the scope of domestic industry and standing:

- i. Participating companies do not constitute domestic industry. Total Indian production in India is 2.37 million MT, of which the production of the participating companies constitutes just 1.07 million or just 45% of the total Indian production.
- ii. Applying the rule of *noscitur a sociis* shows that 'major proportion' means all the producers in an organized sector and almost all producers in an unorganized sector.
- iii. The phrase "a major proportion" does not mean that there can be more than one major proportion. A major proportion does not mean few producers coming together, rather it means almost all the domestic producers.
- iv. Domestic Industry in the present investigation is completely different from the constituents who were determined to be the Domestic Industry in the respective earlier investigations.

Views of the domestic industry

15. The following submissions have been made by the domestic industry with regard to the scope of the domestic industry and standing:

- i. While the Investigating Authorities shall attempt to seek information from all domestic producers, the Designated Authority shall define domestic industry based on information received and having regard to the minimum threshold.

- ii. The remaining domestic producers individually account for significantly low level of production. Further, a number of them have themselves been captively consuming the product. Thus, while it may be desirable to consider domestic producers as a whole, the law clearly envisage a situation where domestic producers as a whole may not be before the Authority.
- iii. Usage of the word 'a' before the word 'whole' cannot be seen in isolation. The argument of the opposing parties is that the intention of legislature has been to specify that there can be only one major proportion. If that were the case then the legislators would have used the word 'the', instead of 'a' before 'major proportion'.

Examination by the Authority

16. The Authority notes that the application has been filed by Alkali Manufacturers' Association of India on behalf of the domestic producers of Caustic Soda and Gujarat Alkalies & Chemicals Limited, Grasim Industries Limited, Shriram Fertilisers & Chemicals, Aditya Birla Chemicals (India) Limited, DCW Limited, SEIL Chemical Complex and Shriram Alkali & Chemicals have provided all relevant information. Production of these producers accounts for a major proportion of total Indian production. The petitioner, therefore, satisfies standing and the petitioner constitutes domestic industry within the meaning of the Rules.

17. As regards the argument that there is change in constitution of domestic industry from the previous investigation, the Authority notes that there is no requirement under the Rules that constitution of the companies representing domestic industry should be the same as was in the earlier investigation. Rules only prescribed for a major proportion of total domestic production. Further, the composition of domestic industry in the instant investigation is the same as that of the midterm review earlier conducted by the Authority. None of the interested party has established that this has in any way prejudiced the present investigation.

E. Confidentiality

Views of exporters/importers/other opposing interested parties

18. The following submissions have been made by the opposing interested parties with regard to confidentiality:

- i. Meaningful information with respect to source of normal value estimates, Iran's normal value calculations, export price calculations, sources of export price adjustments and actual profit and losses for the product under consideration and ECU realization and calculations of third country dumping margin not

disclosed. These informations were provided to the DG Safeguards and, thus, different standards of confidentiality cannot be adopted.

- ii. The petitioner has claimed unwarranted confidentiality and extracts from public reports such as CMAI report have been shown to be confidential.
- iii. The calculation of petitioner of 'third country dumping' is based from magazines Harriman Chemsult and Chemical Week, a copy of which has not been produced.

Views of the Domestic Industry

19. The following submissions have been made by the domestic industry with regard to confidentiality:

- i. The Authority is empowered to reject the information only if it is 'satisfied' that an interested party is unwilling to make the information public. In the instant case, to show unwillingness on the part of the domestic industry to provide non confidential version of the information filed, it first needs to be shown that such information has been denied by the domestic industry.
- ii. No excessive confidentiality has been claimed. Petitioner has sought confidentiality only on such information which is business sensitive or disclosure of which shall adversely impact the business of the domestic industry.

Examination by the Authority

20. The Authority examined the confidentiality claims of the interested parties and on being satisfied with regard to claim on confidentiality, the same has been allowed in accordance with the practice of the Authority.

F. Miscellaneous Issues

Views of the exporters/importers/other opposing interested parties

21. The following submissions have been made by the exporters/importers and other opposing interested parties:

- i. Extension of duty after the lapse of duty is illegal and against the legal provisions. Circular dated 08.07.2011 specified that unless a notification has been issued the duty shall automatically expire. Reference made to the SC decision on Babu Varghese vs. Bar Council of Kerala.

- ii. Investigation needs to be terminated as only a running duty can be extended. The extension cannot be done with a break. Notification 1/2012 has not continued the duty, rather it has started a fresh levy of duty.
- iii. Non-confidential version (NCV) of the updated information was not filed until March and therefore, such information should be rejected as per Rule 7(3).
- iv. Assuming that the NCV was filed in November, the failure of the Authority to provide the updated information till four months is violative of Rule 6(7) and Art. 6.1.2, which require that any evidence should be made 'promptly' available to the interested parties.
- v. Crucial evidence regarding the amended POI has not been made available to the exporters which is contrary to the law that information relied upon or used by the DA in the investigation must be made available to the other interested parties.
- vi. The current form of duty has existed for 12 years. Petitioners have never contested to change form of duty before CESTAT. The method under which the market of the subject goods operates has not changed in 12 years. Hence, there can be no claim for change of form of duty. Further, the authority does not have jurisdiction to change the form of the duty in an SSR.
- vii. Ground that circumvention issue is relevant in determining the form of the duty is incorrect as the form of the duty is determined taking into consideration the nature of the product and the character and the trends of price as well as the market factors.
- viii. It is curious fact that every single source of imports above the de minimis level has been found to be dumping into India. Complainants are exaggerating their claims in order to take a greater market share. Antidumping provisions are to be applied as trade remedy and not as trade barrier.
- ix. DGAD is not the appropriate forum to raise the issue that import price being reported to Custom Authorities are not the real prices at which the goods have been exported. Further, no evidence has been provided.

Views of the domestic industry

22. The following submissions have been made by the domestic industry:

- i. Investigation was initiated before the expiry of duty which is mandated under the law and, therefore, the proceeding is within the jurisdiction. Further, extension of duty pending investigation is a discretionary power wherein the Central Government "may" or "may not" extend the duty, which in no case

would mean that the sunset review investigation becomes in fructuous and needs to be terminated.

- ii. Law does not provide that the duties cannot be extended, pending the outcome of the investigation, if the duty lapses in between. Section 9 A (5) provision nowhere suggests that the duty needs to be extended before the expiry of the duty.
- iii. The Authority is empowered to reject the information only if it is 'satisfied' that the interested party is unwilling to make the information public. The domestic industry did not deny giving any information.
- iv. Delay caused in making evidence available to the interested parties by the Authority cannot be a ground to penalize the petitioners. Information for the POI is of utmost importance. It being the basis of determination, cannot be rejected.
- v. Initiation Notification is nothing but mere a show cause notice, issued by the Designated Authority to exporters and other interested parties as to whether the expiry of such duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry.
- vi. The Authority has modified the form of measures in the past. Any such argument shall imply that if the Designated Authority comes to a conclusion that the form of duties are not appropriate and are required to be modified, the same is not admissible.

Examination by the Authority

23. As regards the submission that extension of duty after the lapse of duty is illegal and against the legal provisions, the Authority notes that there is no bar on the Central government to extend the anti dumping duty during the ongoing sunset review investigation.
24. As regards the submission that NCV of the updated information was not filed until March, the Authority notes that opposing parties have not shown any prejudice caused to them by the non filing of the non confidential updated information. The same was provided to all parties and sufficient opportunity was provided to them.
25. As regards the contention that the Authority does not have the power to change the form of duty, the Authority states that it does not concur with the contention and considers that a proper reading of the relevant rules & regulations on the subject enables the Authority to modify the duties as well, based on the facts and merits of each case.

Assessment of Dumping - Methodology and Parameters

G. Determination of Dumping Margin

26. The Authority notes that the following exporters/importers have filed questionnaire responses -

- a) Arvand Petrochemical Company, Iran
- b) Petrochemical Commercial Company, Iran
- c) Petrochem Middle East FZE, Dubai, UAE
- d) Shell Trading (M.E) Private Ltd, Dubai, UAE
- e) Saudi Basic Industries Corporation, Saudi Arabia
- f) Saudi Petrochemical Company, Saudi Arabia
- g) Petrochem Middle East (India) Pvt Ltd, India

27. Views expressed by all the interested parties have been appropriately taken into account in the present Final Findings Notification.

Views of the Domestic Industry

28. The following submissions have been made by the domestic industry:

- i. The dumping margin from the subject countries is not only significant but also substantial. The producers/exporters from the subject countries would resort to further dumping, should the present anti-dumping duties be revoked.
- ii. Significant third country dumping margin exists, which shows likelihood of continuation of dumping even when the duty is revoked.
- iii. Dumping margin for Iran may be determined considering export price from Iran to third countries.
- iv. Domestic industry has constructed the same normal value for Iran and Saudi Arabia. However, the Designated Authority may kindly consider various informations received from various interested parties and proceed with the best available information.

Views of the exporters/ importers/other opposing interested parties

29. The following submissions have been made by the exporters/importers and other opposing interested parties:

- i. Calculating ex factory normal value for France is a futile exercise since there is no import from France. Petition does not contain normal value calculations for Iran and the basis for these estimates has not been provided.
- ii. Normal value for Iran and Saudi Arabia is the same. However, all parameters and inputs cannot have the same costs in both countries due to various differences in economic, geographical and political factors.
- iii. Export price calculated for France using export price from the other subject countries is not justified as per law. Since there are no exports from France, no duties should be levied as injury margin and dumping margin cannot be calculated.
- iv. Methodology in calculating third country dumping margin is not sound and should, therefore, be disregarded.

General Methodology for working out Dumping Margin

30. It was first determined by the Authority that whether the total domestic sales of the subject goods by the producers/exporters concerned in the subject country was representative when compared to their total sales of the subject goods in the exporting country. Thereafter, it was examined whether their sales are under ordinary course of trade in terms of Rule 2 of the annexure I to the Anti-dumping Rules. Wherever the exporters have provided transaction wise details of sales made in home market and same has been accepted by the Authority after verification of information, the said verified information has been relied upon to determine the average selling price of the subject goods sold in the home market. For the determination of the ordinary course of trade test, the cost of production of the product concerned was examined with reference to the records maintained by the producers. Further, all domestic sales transactions were examined with reference to the cost of production of the subject goods to determine whether the domestic sales were in the ordinary course of trade or not. Thus, only the profitable transactions have been taken into consideration for the determination of normal value for the cooperating producers/exporters where sales below costs exceed 20%. The Authority further notes that in respect of France, one of the subject countries against which anti dumping duties are presently in force and which is subject to present investigation, there are no imports of subject goods either during the base year or in the period of investigation. The quantum of imports from France were noted to be insignificant during the year 2009-10. The Authority further notes that there are no imports of subject goods from France in the post period of investigation as well. In view of there being no imports of subject goods from France during the POI as well as in the post POI, the Authority notes that there are no likelihood of imports from France causing injuries to the domestic industry. In view of the same, no separate assessment of normal value, export price and dumping margin is considered in respect of France. However, in respect of other countries, wherein information on import price

during the POI are available, the Authority has determined separate dumping margin in respect of co-operative and non-cooperative exporters.

31. The Authority proposes to determine the Normal Values and Export Prices as under:

NORMAL VALUE (Saudi Arabia):

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

32. M/s Saudi Petrochemical Company (SADAF), a producer of the subject goods, is a ***% joint venture between SABIC and Shell Chemicals Arabia LLC (SHELL). SHELL and STME are both wholly owned subsidiaries of Royal Dutch Shell Plc. The product concerned produced by SADAF is first sold in the domestic market by SABIC. The balance quantity is shared on *** basis between SABIC and STME for exports out of the Kingdom of Saudi Arabia. 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. As per the marketing agreement between SABIC/STME and SADAF, SABIC/STME will pay SADAF the third party sales price obtained by them less the actual direct and indirect costs related to the physical distribution of the products (freight, transportation, inspection, packaging and insurance costs), taxes, tariffs, duties and other charges levied by any governmental authority and a marketing fee at the rate of ***%.

33. 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. The information submitted by the company was verified by the Authority. The domestic sales were made by SABIC to both related as well as unrelated companies. The domestic sales price to related companies was USD ***/MT and to unrelated companies was USD ***/MT. Since the domestic sales price to related and unrelated companies was in the same range, all the domestic sales were considered for determination of normal value. The domestic sales were both on FOB as well as CIF basis. From the FOB/CIF sale price, adjustments were made on account of credit cost, ocean freight, extra port charges, other expenses, shifting charges, bank charges, transportation tax, demurrage, insurance and marketer fees to arrive at the normal value. The adjustment claimed have been allowed by the Authority, based on actual and as verified by the Authority. Accordingly, the normal value is determined as USD ***/MT.

NORMAL VALUE (Non-cooperative exporters from Saudi Arabia)

34. The Authority proposes to determine normal value for non-cooperative producers/exporters from Saudi Arabia on the basis of best available information as per the Rules.

EXPORT PRICE

EXPORT PRICE (Saudi Arabia)

M/s Saudi Petrochemical Company (SADAF), Saudi Arabia and M/s Saudi Basic Industries Corporation (SABIC), Saudi Arabia

35. M/s Saudi Basic Industries Corporation (SABIC), Saudi Arabia SABIC has exported ***MT of subject goods directly to India during the POI on CIF/CFR basis. The total CIF / CFR price of sales of subject goods during the POI is US \$ **. From the CIF/CFR export price, adjustments were made on account of credit cost, ocean freight, port handling charges, customs fees, shifting charges, bank charges, insurance and marketer fees to arrive at the ex-factory export price. The adjustment from the export price have been allowed, as per actual and as verified by the Authority. Accordingly, the ex-factory export price is determined as USD ***/MT.

M/s Saudi Petrochemical Company (SADAF), M/s Shell Trading (ME) Pvt. Ltd. (STME), Dubai and M/s Petrochem Middle East FZE, Dubai

36. M/s Shell Trading (ME) Pvt. Ltd. (STME) has exported ***MT of subject goods to India during POI through M/s. Petrochem Middle East FZE, Dubai on FOB Al-Jubail basis. The Authority notes that M/s Petrochem Middle East, FZE, Dubai, submitted separate data with regards to its exports to India during the POI. The subject goods have been sold by M/s Petrochem Middle East FZE, Dubai through a related entity M/s Petrochem Middle-east India Pvt. Ltd. The information submitted by M/s STME, Dubai and M/s Petrochem Middle East FZE was verified by the Authority. From the FOB export price, adjustments were made on account of credit cost, bank charges and marketer fees to arrive at the ex-factory export price. Accordingly, the ex-factory export price is determined as USD ***/MT.

Non Cooperative exporters from Saudi Arabia

37. The Authority notes that no other exporter from Saudi Arabia has submitted exporter's questionnaire response. Therefore, the Authority has adopted the lowest representative net export price to India of the cooperating exporters from Saudi Arabia.

NORMAL VALUE (Iran)

M/s Arvand Petrochemical Co., Iran (APC)

38. M/s Arvand Petrochemical Co. (APC), Iran submitted exporters questionnaire response in the prescribed performa. The exporter also submitted details of sales of the subject goods in the domestic market during the period of investigation. It was noted from the exporters response that the company commenced commercial production of subject goods in October 2010. It was further noted that another related company of M/s APC i.e. M/s Bandar Imam Petro Chemical Complex (BIPCC) is also engaged in the manufacture of the subject goods. However, no response has been filed by M/s BIPCC. In response to a query from the authority, it was clarified that M/e BIPCC have not exported the subject good to India during the POI. The M/s APC in its exporter response further stated that the subject goods have been sold in the domestic market through Mercantile Exchange. The company also submitted the name of customers through whom the subject goods have been sold in the domestic market. The sold a total quantity of *** Metric Tons of subject goods at a Net Invoice Value of US \$ ***. In its response the company admitted that the subject goods have been sold in the domestic market at a loss. The company was also asked to furnish the methodology adopted for submitting the information in Appendix VIII of the exporters response regarding the cost of production of the subject goods including the methodology for valuation of captive inputs and distribution of cost between joint products / by products. In response to the same, it was clarified that the cost has been apportioned based on the assumptions and no basis for allocations are maintained by the company. In view of the submissions of the company as above, and since the subject goods have been sold in the domestic market at a loss, the Authority has determined the Normal Value based on available information based on constructed Normal Value for the domestic industry. Accordingly, the Normal Value is determined as US \$ *** per Metric Ton.

NORMAL VALUE (Non-cooperative exporters from Iran)

39. The Authority proposes to determine normal value for non-cooperative producers/exporters from Iran on the basis of best available information as per the Rules.

NORMAL VALUE (USA and Japan)

40. The Authority notes that none of the producers/exporters from USA and Japan has submitted exporter's questionnaire response and are, therefore, considered non-cooperative. Therefore, the Authority has relied upon the best available information in terms of Rule 6(8) of the Rules for the determination of normal value in respect of USA and Japan and proposes to determine the Normal Value accordingly.

EXPORT PRICE (Iran)

In respect of M/s Arvand Petrochemical Co., Iran (APC)

41. It is noted that M/s APC have sold the subject goods in the export market to M/s Petrochemical Commercial Company, Iran (PCC). The share holding in M/s PCC is held by M/s National Petrochemical Company (NPC), a company related to the manufacturing company M/s APC. The exporters M/s PCC filed separate questionnaire response in the prescribed performa. It is noted from the exporters response that the subject good have been sold by M/s PCC directly as well as through trading companies, i.e., M/s Petrochem Middle East FZE, Dubai and M/s Hiran Yavaran Alkali. M/s Petrochem Middle East FZE, Dubai has filed separate exporter response, while no exporter's response has been filed by M/s Hiran Yavaran Alkali. In view of the same, the exports by trader M/s Hiran Yavaran Alkali have not been considered by the Authority while determining the export price in case of M/s APC, Iran.

M/s PCC Direct Sales

42. The company has exported a total quantity of *** Metric Tons of subject goods to India. All the sales in exports to India have been made on CFR basis. The company has claimed adjustments on account of commission, overseas transportation and bank charges. After adjustment of these expenses, the Ex-Factory Value for exports to India during the POI is worked out to US \$ *** per Metric Ton .

M/s PCC Sales through M/s Petrochem Middle East

43. The company has exported a total quantity of *** Metric Tons of subject goods to India at a Export Price of US \$ ***. The exports to India have been made on CFR basis. The company has claimed adjustments on account of commission and overseas transportation. After adjustment of these expenses, the Ex-Factory Value for exports to India during the POI is worked out to US \$ *** per Metric Ton.

Non Cooperative exporters from Iran

44. The Authority notes that no other exporter from Iran has submitted exporter's questionnaire response. Therefore, the Authority has adopted the lowest representative net export price to India based on IBIS, Mumbai import data.

Non Cooperative exporters from USA and Japan

45. The Authority notes that no other exporter from USA and Japan has submitted exporter's questionnaire response. Therefore, the Authority has adopted the net export price to India based on IBIS, Mumbai import data.

46. Based on the above, the Normal Value, Export Price and Dumping Margin in respect of cooperative and non-cooperative exporters from the subject countries are summarised below:

In US\$/MT						
S.No.	Country- Producer/Exporter	Normal Value	Net Export	Dumping Margin	Dumping Margin %	Dumping Margin

			Price			Range
USA						
1.	All producers and exporters	***	***	***	***	110-120
Iran						
2.	Arvand Petrochemical Company (APC), Iran – Petrochemical Commercial Company (PCC) (Direct Sales)	***	***	***	***	25-35
3.	Arvand Petrochemical Company (APC), Iran – Petrochemical Commercial Company (PCC) – Petrochem	***	***	***	***	25-35
4.	All other producers and exporters	***	***	***	***	40-50
Saudi Arabia						
5.	Saudi Petrochemical Company (SADAF), Saudi Arabia – Saudi Basic Industries Corporation (SABIC), Riyadh	***	***	***	***	190-200
6.	Saudi Petrochemical Company (SADAF), Saudi Arabia – Saudi Basic Industries Corporation (SABIC), Riyadh – Shell Trading (M.E.) Private Limited (STME), Dubai – Petrochem Middle-east (FZE), Dubai	***	***	***	Negative	-
7.	All other producers and exporters	***	***	***	***	190-200
Japan						
8.	All producers and exporters	***	***	***	***	90-100

Assessment of Injury and Examination of Causal Link

Injury & Causal Link

Views of the domestic industry

47. The Domestic Industry has submitted that subject goods from the subject countries have caused injury to the Domestic Industry as evident from the following:

- i. Demand has increased over the injury period and so has the imports in spite of the anti dumping duty being in force.
- ii. Imports have increased significantly in relation to the total imports, production and consumption in India because of which share of the domestic industry has declined.
- iii. Price undercutting for proposed POI as a whole is negligible. However, negative undercutting is very insignificant, which shows that the import prices and domestic prices are in competition to each other.
- iv. The import prices declined very steeply in 2009-10. So significant was the decline in the prices that the same resulted in significant financial losses to the domestic industry in 2009-10.
- v. Capacity utilization reduced in 2008-09 but increased thereafter. However, capacity utilization remained lower than the levels established earlier.
- vi. Should the present duties not continue, market share of the domestic industry would decline further.
- vii. ROI and cash profit of the domestic industry has significantly deteriorated over the injury period.
- viii. Even though performance of the domestic industry improved in terms of production, productivity and domestic sales, the negative developments, particularly in price parameters, far outweigh these positive parameters.
- ix. Even if domestic industry improves all its volume parameters, but its performance deteriorates in respect of price parameters (profit, return on investment and cash flow), the improvements in volume parameters is of no business advantage to the domestic industry.
- x. The Association has limitations with regard to the extent to which it can pursue with its members to provide the costing and injury information that is required by the Designated Authority for the present purpose. Lack of cooperation/ participation/ support by other domestic producers cannot prejudice the rights of those domestic producers who have provided information and who wish the anti-dumping duties to be extended further.

Views of the exporters/importers/consumers and other opposing interested parties

48. The following arguments have been advanced:

- i. Constituents of DI are completely different from that who participated in other investigation on the subject goods. Such 'menu type' selection of companies to constitute DI is untenable. This is being done to suit to the convenience of the Petitioning Association. DI as a whole needs to be analysed for determination of injury.
- ii. When petition is claimed to have been made by an Association, then injury information is to be necessarily be provided by all members of the Association. Extending support does not merely mean filing support but filing all necessary information.
- iii. Updated information provided is highly unreliable as with the change in POR between the petition and initiation, information only for the POR should have been changed, whereas the

information has been changed for the previous year as well. While the cost of production increased, the losses have turned into profits. Such changes in two earlier years without even providing reasoning for change, raises serious doubts on the credibility of the information.

- iv. Petitioner has been manipulating data to suit its needs. Injury information as submitted before the Safeguard Authority shows 370% increases in the imports during the first two quarters of 2009-10, whereas the data has been completely changed before the DGAD.
- v. Production of Caustic Soda Lye alone (as filed before the DGSGD), was higher than the production of Caustic Soda Lye plus Flake (as filed before the DGAD). Import figures are different in different investigations (MTR and SSR) for the same year.
- vi. Related parties of the participating companies should be directed to file injury information. If such parties fail to cooperate then the same should be held as non cooperation/opposition by the other domestic producers and the investigation should be terminated.
- vii. Exports made by Saudi Arabia have been made at much higher price than the domestic industry and, therefore, have not caused injury to the domestic industry.
- viii. Total domestic demand of caustic soda in India is around 23,36,055 MT. The unutilized capacity in Saudi Arabia is mere 9000 MT. Therefore, there is no fear of injury or recurrence of injury on account of imports from Saudi Arabia.
- ix. Claim of continued injury is incorrect. Production and sales have increased for M/s Aditya Birla Nuvo Ltd and Grasim.
- x. Productivity for the entire industry in India has increased.
- xi. Period of global recession has ended and steady growth is expected.
- xii. When demand fell by 45407 MT in the POR, the domestic producers managed to increase their sales by 121,983 MT while imports fell by 167,390 MT.
- xiii. Financial statement of DCW Ltd, with regard to their Caustic Soda Division suffers from serious mistake. Inclusion of power turnover and profit related thereto as part of Caustic Soda segment is not in accordance with Accounting Standard 17 issued by the ICAI. Costing data needs a thorough investigation.
- xiv. The industry outlook looks better as is shown from the financial statement of M/s DSCL Ltd, Aditya Birla Chemicals (India) Ltd, M/s DCW Ltd. And Aditya Birla Nuvo Ltd.
- xv. Absence of causal link: Strong competition among domestic players in India. The domestic producers are undercutting each other's prices. DI has argued before the DGSGD that they suffered injury on account of sudden surge in imports.
- xvi. NIP should be determined at a reasonable return on capital employed keeping in mind the past performance of the domestic industry as also has been held in the matter of M/s Bridgestone India Pvt Ltd vs. DA.
- xvii. Most of the Caustic Soda manufacturers are located on the West Coast whereas the Aluminium Industry is located on the East Coast. The logistics cost for supply of Caustic Soda Lye using road transport is too high compared to sea movement. And because of this also, aluminum industry is constrained to import Caustic Soda Lye.
- xviii. Claimed import data in Proforma IV A is 16,429 MT whereas the transaction wise data shows the imports to be 9784 MT.
- xix. Figures are being changed arbitrarily at the whims and fancies of DI, by keeping the interested parties in dark. This raises doubt on the correctness of the information so provided.

- xx. Capacity, production and sales have increased over the injury period. Capacity utilization has declined significantly as there was significant capacity addition.
- xxi. Negative price undercutting exists which shows that the landed price is higher than the selling price. Thus injury, if any, may be attributed to imports from other countries.
- xxii. The Authority should consider actual information as submitted by the cooperating exporters for the purpose of calculating dumping margin.
- xxiii. DI has not made any submission on causal link, wrongly stating that there is no need for establishing causal link in a sunset review case. Law requires establishment of causal link. It cannot be any kind of injury whether attributable to dumping or not.
- xxiv. No reason has been given by the DI, as to why it continued selling the product below the landed price during the POI when the benchmark prices in the form of landed price added with importers margin prevailed at much higher level than NSR.
- xxv. Import volume shows significant decline in the POI while the demand has shown increase. Market share of petitioning Association has increased.
- xxvi. Price undercutting is negative for the subject countries. No calculation on NIP and price underselling has been disclosed in the petition.
- xxvii. Profitability has been lower, but is only for the member companies. Data for the DI as a whole is not available. Examination of profitability for the POI fixed by the Authority shows marked improvement.
- xxviii. Domestic industry has increased its capacity by 16% during the injury period and despite increase has managed to maintain its capacity utilization at 90%
- xxix. Imports are not causing any injury to DI. Rather imports are caused by shortage of material in India. Caustic soda in India is forced imports on account of following two factors (a) the effective limited capacity of DI on account of Chlorine off-take issues and (b) Geographical imbalances in demand and supply.

Examination by the Authority

49. The Authority has examined the submissions and issues raised by the interested parties with regard to injury to the domestic industry as under :-

- a) As regards geographical imbalance in the location of the domestic industry of the subject goods vis-à-vis location of the user industry, the Authority notes that Caustic Soda industry is present in all regions of the country.
- b) As regards injury to the domestic industry, the Authority has examined the economic parameters as required under the Anti-Dumping Rules and the Authority's comments in this regard have been provided at appropriate places in this Final Findings Notification.
- c) The Authority notes that present petition has been filed by Alkali Manufacturers' Association of India on behalf of the domestic industry. M/s. Gujarat Alkalies & Chemicals Limited, Grasim Industries Limited, Shriram Fertiliser's & Chemicals, Aditya Birla Chemicals (India) Limited, DCW Limited, SEIL Chemical Complex and Shriram Alkali & Chemicals.

- d) The Authority has, therefore, examined injury to the domestic industry with regard to these companies. The issues raised by interested parties in relation to injury have been duly examined by the Authority in appropriate places in the Final Findings Notification.

Cumulative Assessment

50. Annexure II to the Anti Dumping Rules provides that in case the imports of a product from more than one country are being simultaneously subjected to anti dumping investigations, the Designated Authority will cumulatively assess the effect of such imports, in case it determines that:-

(a) the margin of dumping established in relation to the imports from each country is more than two percent expressed as percentage of export price and the volume of the imports from each country is three percent of the imports of the like article or where the export of the individual countries is less than three percent, the imports cumulatively accounts for more than seven percent of the imports of like article, and;

(b) cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic articles.

51. In this regard, the Authority notes that the margin of dumping from each of the subject countries except France is more than the limits prescribed. Quantum of imports from each of the subject countries is more than the de-minimus limits. The product manufactured by the producers from the subject countries inter-se and in comparison to the product manufactured by the domestic industry has comparable properties.

52. The domestic producer and producer-exporters in the subject countries are selling the product to the same category of consumers.

53. Cumulative assessment of the effects of imports is appropriate since the exports from the subject countries directly compete with the like goods offered by the domestic industry in the Indian market.

54. Since, there are no imports of subject goods from France during the POI, the Authority, therefore, considers it appropriate to analyze volume of imports, market share of dumped imports versus domestic industry, price undercutting, price suppressing or depressing effects of imports cumulatively from the subject countries except France.

55. Rule 11 of the Anti Dumping Rules read with Annexure II provides that an injury determination shall involve examination of factors that may indicate injury to the domestic industry, "..... taking into account all relevant facts, including the volume of dumped imports, their effects on prices in the domestic market for the like articles and the consequent effect of such imports on domestic producers of such

articles.....” In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been significant price undercutting by the dumped imports as compared with the price of the like article in India or whether the effect of such imports is otherwise to suppress prices to a significant degree or prevent price increase, which otherwise would have occurred, to a significant degree.

56. For the examination of the impact of the dumped imports on the domestic industry in India, the indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, stock, profitability, net sales realization, the magnitude of margin of dumping etc. have been considered in accordance to the Annexure II of the rules supra.

57. Present investigation is a sunset review investigation of the anti dumping duty in force. Rule 23 provide that provisions of Rule 11 shall apply on mutatis mutandis basis. The Authority has therefore, determined injury to the domestic industry considering, mutatis mutandis, provisions of Rule 11 read with Annexure II. Further since anti dumping duties in force on imports on imports of product under consideration, the Authority considers that the fact of existing anti dumping duties on the product imported from the subject countries is required to be considered while examining the injury to the domestic industry. The Authority has examined whether existing measures are not sufficient to counteract the dumping which is causing injury.

Assessment of demand

58. For the calculation of the domestic consumption/demand of the product under consideration, the Authority has added sales volume of the domestic industry and other Indian producers to the total imports into India. It is noted that domestic industry has determined imports volume and value based on data collected from secondary source i.e. International Business Information Services. The domestic industry has earlier submitted transaction wise import information in their submission. During the investigation, the Authority requested DGCI&S to provide the said information on transaction to transaction basis, which was received by the Authority. It is noted that IBIS data shows significantly higher volume of imports. The Designated Authority has therefore, relied upon the data of the IBIS for the purpose of imports statistics with regard the quantity and price of the subject goods for the purpose of present Sunset Review.

59. Demand of the product in the Country has been accessed as the sum of domestic sales of the domestic producers and imports from all sources. The share of subject countries in the total imports and demand in India are as follows:

Particulars	Unit	2007-08	2008-09	2009-10	(POI)
Sales of Domestic industry	MT	904,463	934,073	986,293	1,005,568

Captive consumption of Domestic Industry	MT	29,745	23,974	26,681	23,067
Sales of Other Indian Producers	MT	977,364	1,003,668	1,039,842	1,183,933
Imports from Subject Countries	MT	3,154	9,148	123,624	67,019
Imports from other countries attracting ADD (**)	MT	142,283	167,213	196,067	120,416
Imports from other countries	MT	1,585	80	13,637	0
Demand including captive consumption	MT	2,058,595	2,138,156	2,386,144	2,400,003
Market share					
Domestic Industry including captive consumption		45.38	44.81	42.45	42.86
Other Indian Producers	%	47.48	46.94	43.58	49.33
Total Indian Producers	%	92.86	91.75	86.03	92.19
Imports - Subject Countries	%	0.15	0.43	5.18	2.79
Imports from other countries attracting ADD (**)	%	6.91	7.82	8.22	5.02
Imports from other countries	%	0.08	0.00	0.57	0.00
Total	%	100.00	100.00	100.00	100.00

(**) including France imports

60. The Authority notes that:

- i. Despite imposition of anti dumping duty, imports of the subject goods from the subject countries increased significantly in 2009-10 and thereafter have decreased in the POI. However, the same shows significant increase from the base year.
- ii. The market share in demand for subject countries has increased from base year to the period of investigation. The Authority notes that in spite of anti dumping duty in force, the imports and market share of the subject countries increased, which should have declined.
- iii. The Authority notes that though there is decline in volume of imports in the POI in absolute term compared to the previous year, imports are significant as compared to the base year.

Volume Effect of Dumped Imports

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

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

Assessment of market share and share in demand

Particulars	Unit	2007-08	2008-09	2009-10	POI
Sales of Domestic industry	MT	904,463	934,073	986,293	1,005,568
Captive consumption of Domestic industry	MT	29,745	23,974	26,681	23,067
Sales of Other Indian Producers	MT	977,364	1,003,668	1,039,842	1,183,933
Imports from Subject Country	MT	3,154	9,148	123,624	67,019
Imports from other countries attracting ADD (**)	MT	142,283	167,213	196,067	120,416
Imports from other countries	MT	1,585	80	13,637	0
Total Imports	MT	147,022	176,441	333,328	187,435
Total Demand in India including captive	MT	2,058,595	2,138,156	2,386,144	2,400,003
Market share in Demand					
Domestic industry including captive consumption	%	45.38	44.81	42.45	42.86
Other Indian Producers	%	47.48	46.94	43.58	49.33
Total Indian Producers	%	92.86	91.75	86.03	92.19
Imports from Subject Countries	%	0.15	0.43	5.18	2.79
Imports from other countries attracting ADD (**)	%	6.91	7.82	8.22	5.02
Imports from other countries	%	0.08	0.00	0.57	0.00
Total	%	100.00	100.00	100.00	100.00

(**) including France imports

62. The Authority notes that:

- i. The market share of the domestic industry has shown decline in the POI as compared to the base year. This is despite the addition of the capacity and increase in demand.
- ii. The Authority further notes that the share of imports of the subject countries increased significantly in the year 2009-10. Further, it continued to be higher than base year.
- iii. The table below indicates analysis of share of the subject countries in the total imports and share in demand in India.

Particulars	2007-08	2008-09	2009-10	POI
Imports (MT)				
Iran	-	-	-	16,429
Saudi Arabia	3,154	9,148	21,836	32,780
Japan	-	-	8,351	17,510
USA	-	-	93,436	300
Subject Countries	3,154	9,148	123,624	67,019
Other countries attracting ADD (**)	142,283	167,213	196,067	120,416
Other Countries not subject to ADD	1,585	80	13,637	-
Total Imports	147,022	176,441	333,328	187,435
Market Share in Imports (%)				
Iran	-	-	-	8.77
Saudi Arabia	2.15	5.18	6.55	17.49
Japan	-	-	2.51	9.34
USA	-	-	28.03	0.16
Subject Countries	2.15	5.18	37.09	35.76
Other countries attracting ADD (**)	96.78	94.77	58.82	64.24
Other Countries not subject to ADD	1.08	0.05	4.09	-
Demand including captive	2,058,595	2,138,156	2,386,144	2,400,003

Market Share in Demand (%)				
Iran	-	-	-	0.68
Saudi Arabia	0.15	0.43	0.92	1.37
Japan	-	-	0.35	0.73
USA	-	-	3.92	0.01
Subject Countries	0.15	0.43	5.18	2.79
Other countries attracting ADD (**)	6.91	7.82	8.22	5.02
Other Countries not subject to ADD	0.08	0.00	0.57	-
Domestic industry	45.38	44.81	42.45	42.86
Indian Industry	92.86	91.75	86.03	92.19
Production of Domestic industry (MT)	971,346	1,000,783	1,063,072	1,111,643
Imports in relation to production of domestic industry (%)				
Iran	-	-	-	1.48
Saudi Arabia	0.32	0.91	2.05	2.95
Japan	-	-	0.79	1.58
USA	-	-	8.79	0.03
Subject Countries	0.32	0.91	11.63	6.03
Other countries attracting ADD (**)	14.65	16.71	18.44	10.83
Other Countries not subject to ADD	0.16	0.01	1.28	-

(**) including France imports

63. The Authority notes from the above that:-

- (a) The imports of the subject goods from the subject countries have increased steeply from the base year to the period of investigation.
- (b) The surge of imports from the subject countries is more than increase in demand in spite of anti dumping duty in force.
- (c) Market share of the subject countries has significantly increased from 0.15% to 2.79%. It is noted that there has been an increase in the market share of exports from the subject countries even when anti dumping duty is in force.

(d) Whereas the market share of the subject countries has shown an increase in the period of investigation from the base year, the market share of domestic industry has declined from 45.38% in the base year to 42.86% in the period of investigation.

Price Effect

64. With regard to the effect of the dumped imports on prices, Annexure II (ii) of the Rules states as under:

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

65. During investigation, it was examined as to whether there has been a significant price undercutting effect by the dumped imports as compared with the price of the like product in India, or whether there is likelihood of recurrence of price effect after revocation of duty. Since, the present investigation is a sunset review investigation, the Authority is required to consider what would be the extent of price undercutting, if the current duties are allowed to cease. In this context, the Authority has undertaken an analysis of the net sales realization, non-injurious selling price of the domestic industry and the landed price of the imports from the subject countries during the period of investigation.

66. The impact of dumped imports on the prices of the domestic industry has been examined with reference to the price undercutting and price underselling. For this purpose, net sales realization (NSR) and the non-injurious price (NIP) of the domestic industry have been compared with the landed value of imports from the subject countries. The net sales realization was arrived excluding excise duty, rebate, discount and taxes. Landed value of imports has been calculated by adding 1% landing charge, applicable basic customs duty and cess to the CIF value of the subject imports. The landed value of imports was compared with net sales realization of the domestic industry so determined. The trend of undercutting and underselling is given below:

S.No.	Particulars	UOM	Iran	Saudi Arabia	Japan	USA	Subject Countries
1	Net Sales Realization	Rs./ton	***	***	***	***	***
2	Non-injurious price	Rs./ ton	***	***	***	***	***
3	Landed Price of Imports	Rs./ ton	16,630	14,636	17,854	13,867	15,960

4	Price undercutting	Rs./ ton	***	***	***	***	***
5	Price undercutting range	%	(0-10)	0-10	(10-20)	5-15	(0-10)
6	Price Underselling	Rs./ ton	***	***	***	***	***
7	Price Underselling range	%	(0-10)	5-15	(5-15)	10-20	0-10

67. The Authority notes that price undercutting is negative from two subject countries whereas landed prices from two of the subject countries show positive price undercutting. In this regard, the Authority examined cumulative assessment of dumped imports. The Authority notes that the domestic industry competes with the dumped imports simultaneously and, therefore, there may be negative undercutting from any of the subject country as well. The Authority further notes that in case of Saudi Arabia and USA, the landed price of imports is below the non injurious price of the domestic industry. It is further noted that the underselling from both these subject countries during the POI is positive.

Price suppression/depression

68. The Authority notes that in a sunset review investigation, the Authority is required to examine whether there was a significant adverse price effect by the dumped imports as compared with the price of the like product in India, or whether there is likelihood of significant adverse price effect in case of revocation of anti dumping duty.

69. To examine price suppression and depression effect, the Authority has examined cost of sales and selling price per unit of the domestic industry during the POI and the injury period. The trends in this regard are given in the table below:

Particulars	Unit	2007-08	2008-09	2009-10	POI
Cost of sales	Rs/MT	***	***	***	***
Trend	Indexed	100	134	123	108
Selling price	Rs/MT	***	***	***	***
Trend	Indexed	100	125	102	91

70. From the above, the Authority notes that cost of sales of the domestic industry increased in 2008-09, which declined thereafter. However, in the POI, it remained 8% higher compared to base year. The Authority further notes that the selling price also shows same trend. However, the decline in sales prices in the POI is more than the decline in cost of sales. Therefore, profitability of the domestic industry has been affected in the POI.

71. Thus the domestic Industry has not been able to realize prices of the subject goods commensurate with the increase in the cost of production. Thus, price suppression has taken place during the POI.

Economic parameters relating to the domestic industry

72. Annexure II to the Rules requires that the determination of injury shall involve an objective examination of the consequent impact of these imports on domestic producers of the subject goods. Further Annexure II (iv) of the Rules lays down as follows:-

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

Production, Capacity, Capacity Utilization and Sales

73. The volume of domestic production and effects of dumped imports on the domestic operation of the domestic industry have been examined in terms of total production, capacity utilization and domestic sales of the domestic industry. Capacity, production, capacity utilization and sales volumes of the domestic industry have been as under:-

Particulars	Unit	2007-08	2008-09	2009-10	POI
Installed Capacity	MT	1,075,550	1,167,993	1,239,220	1,245,820
Trend	Indexed	100	109	115	116
Gross Production	MT	971,346	1,000,783	1,063,072	1,111,643
Trend	Indexed	100	103	109	114
Capacity Utilization	%	90.31%	85.68%	85.79%	89.23%
Trend	Indexed	100	95	95	99
Demand incl captive	MT	2,058,595	2,138,156	2,386,144	2,400,003
Trend	Indexed	100	104	116	117
Domestic Sales					

- Lye	MT	672485	717652	716184	773639
Trend	Indexed	100	107	106	115
- Flakes	MT	231,978	216,422	270,109	231,930
Trend	Indexed	100	93	116	100

74. The Authority notes that:-

- i. The Domestic Industry increased its capacity to meet the increasing demand of the product in India. The production of domestic industry has also shown increasing trends in line with the increasing installed capacity and the demand for the subject goods.
- ii. Sales volumes of the domestic industry have also increased. However, increase in sales is less than increase in demand. This situation exists despite anti dumping duty in force and enhancement of capacity.
- iii. Capacity utilization of the domestic industry has marginally declined despite increase in the demand and existence of anti dumping duty.

Profits, return on investment and cash profit

75. The profits, cash flow and return on investments earned by the domestic industry from the sales of the subject goods in the domestic market were as under: -

Particulars	Unit	2007-08	2008-09	2009-10	POI
Lye					
Cost of sales	Rs/MT	***	***	***	***
Trend	Indexed	100	134	123	108
Selling Price per	Rs/MT	***	***	***	***
Trend	Indexed	100	125	102	91
Profit/Loss - Lye	Rs/MT	***	***	***	***
Profit/Loss Lye	Rs./Lacs	***	***	***	***
Trend	Indexed	100	102	37	42
Flake					
Cost of sales	Rs/MT	***	***	***	***

Trend	Indexed	100	137	119	114
Selling Price per	Rs/MT	***	***	***	***
Trend	Indexed	100	125	96	88
Profit/Loss - Lye	Rs/MT	***	***	***	***
Profit/Loss Lye	Rs./Lacs	***	***	***	***
Trend	Indexed	100	87	38	20
Profit/Loss - Lye and Flake	Rs./Lacs	***	***	***	***
Trend	Indexed	100	102	45	40
Cash Profit	Rs. Lacs	***	***	***	***
Trend	Indexed	100	102	57	55
ROI	%	***	***	***	***
Trend	Indexed	100	80	38	34

76. The Authority notes that:

- i. Selling price has decreased whereas cost of production has increased in the period of investigation as compared to the base year.
- ii. Domestic industry's profitability has decreased and Cash profit has shown decline from the base year.
- iii. Return on Investment has also shown significant decline from the base year.

Employment, productivity and wages

77. The number of employees employed by the domestic industry, its productivity and wages paid shows as follows:

Particulars	Unit	2007-08	2008-09	2009-10	POI
Employment	Nos.	2,470	2,357	2,366	2,384
Wages	Rs./MT	***	***	***	***
Trend	Indexed	100	101	110	107
Productivity per employee	MT/MT	393	425	449	466

78. The Authority notes that employment has decreased, wages paid have increased and the productivity per employee of the domestic industry has improved.

Inventories

79. Inventory position of the domestic industry is given in the table below:

Lye	Unit	2007-08	2008-09	2009-10	2010-11
Opening Stock	MT	***	***	***	***
Closing Stock	MT	***	***	***	***
Average Stock	MT	7,121	8,855	8,930	7,630
Stock as no. of days of sales	Nos	4	5	5	4

Flakes	Unit	2007-08	2008-09	2009-10	2010-11
Opening Stock	MT	***	***	***	***
Closing Stock	MT	***	***	***	***
Average Stock	MT	3,307	2,815	2,355	2,675
Stock as no. of days of sales	Nos	5	5	3	4

80. No significant changes in the level of stocks of the domestic industry has been noted during the injury period and the POI.

Factors affecting domestic prices

81. Consideration of the import prices from the subject countries and other countries, change in the cost structure, competition in the domestic market, factors other than dumped imports that might be affecting the prices of the domestic industry in the domestic market shows that the landed value of imported material from two of the subject countries, i.e., Saudi Arabia and USA are below the non injurious price determined for the domestic industry, causing price underselling in the Indian market. Imports from other countries are either attracting anti dumping duties or are at much higher prices. There is no viable substitute to this product. Demand for the product was showing significant increase and could not have been a factor responsible for price suppression faced by the domestic industry. It is, thus, evident that the subject imports are responsible for the domestic industry's fragile state.

Magnitude of Dumping Margin

82. The Authority notes that dumping margin from the subject countries except France are more than the *de-minimus* limits.

Ability to raise capital

83. The petitioning companies are multi product companies. Therefore, dumping of the subject goods has, not affected the ability of the domestic industry to raise capital.

Growth

84. The analysis of the growth of the domestic industry over the previous years in respect of some important parameters reflects the following trend:

Particulars	Unit	2007-08	2008-09	2009-10	2010-11
Production	%		3.73	6.27	4.66
Domestic Sales Volume – Flake	%		6.72	(0.20)	8.02
Selling price domestic – Flakes	%		***	***	***
Selling price domestic – Lye	%		***	***	***
Selling price domestic – Flakes	%		***	***	***
Cost of sales. - Domestic – Lye	%		***	***	***
Cost of sales - Domestic – Flakes	%		***	***	***
Profit Per Unit – Lye	%		***	***	***
Profit Per Unit - Flakes	%		***	***	***
Return on capital employed (NFA basis)	%		***	***	***

85. The Authority notes that negative trend is observed in most of the price parameters. Further, imports from the subject countries and its market share have increased

continuously throughout the injury period. This situation is in existence in spite of anti dumping duty being in force.

LIKELIHOOD OF CONTINUATION OR RECURRENCE OF INJURY

86. The domestic industry in its submissions claimed that the requirement under a sunset review is to examine whether revocation of anti dumping duty is likely to lead to continuance or recurrence of injury to the domestic industry and therefore, any examination based on the factors listed for a threat analysis would be flawed. Therefore, all such factors brought to the notice of the Authority have been examined to find if there is a likelihood of continuation of injury in the event of withdrawal of the duty. The Authority proposes to determine that the subject goods are continuing to enter the Indian market at dumped prices or are likely to be exported at dumped prices from the subject countries in the event of withdrawal of anti dumping duties. It is pertinent to examine whether injury to the domestic industry is likely to recur due to these dumped imports if the duty is removed.

87. In addition to the examination of continued injury, likelihood of continued or recurrence of injury to the domestic industry has also been examined by the Authority on the basis of information and evidence as submitted by various interested parties during the course of the investigations. The Authority examined the likelihood of continuation or recurrence considering the parameters relating to the threat of material injury in terms of Annexure II (vii) of the Rules which states as under:

“A determination of a threat of material injury shall be based on facts and not merely on allegation, conjecture or remote possibility. The change in circumstances, which would create a situation in which the dumping would cause injury, must be clearly foreseen and imminent. In making a determination regarding the existence of a threat of material injury, the Designated Authority shall consider, inter alia, such factors and;

- i) a significant rate of increase of dumped imports into India indicating the likelihood of substantially increased importation.*
- ii) Sufficient freely disposable or an imminent, substantial increase in capacity of the exporter indicating the likelihood of substantially increased dumped exports to Indian market, taking into account the availability of other export markets to absorb any additional exports.*
- iii) Whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices, and would likely increase demand for further imports and,*

iv) *Inventories of the article being investigated.”*

88. The domestic industry has provided information regarding capacity, production and demand of the subject goods of the exporting countries based on report published by Harimann Chemsult. The Authority, based on the data presented by the interested parties, has determined whether the exports made by the producers from the subject countries is at dumped prices. In this regard, the following data / trends have been noted by the Authority:

Unutilized Capacity in the Subject Countries

89. The Authority notes that considering the installed capacities and production of the subject goods during the year 2010, each of the subject countries is having unutilized capacity compared to actual production by the domestic producers as detailed below:

Unit in MT

Period: 2010	Iran	Saudi Arabia	Japan	USA
Capacity	376000	763000	4624000	12176000
Production	251000	710000	4101000	11033000
Capacity Utilization	67%	93%	89%	91%
Unutilized Capacity	125000	53000	523000	1143000

Disposable capacity and potential exports to India

90. Based on the analysis of actual production, imports by the respective companies, consumption of the subject goods in the domestic market, the subject countries have surplus disposable capacities for production of the subject goods. Therefore, the Authority proposes to hold that in the event of withdrawal of the anti-dumping duties there is likely hood of the surplus disposable capacities being utilized by the companies to enhance the exports of the subject goods to India at dumped prices. Status of capacity, demand, production and exports of the subject countries are given below.

Unit in MT

Particular	2007	2008	2009	2010
USA				
Capacity	12455000	12367000	11830000	12176000
Consumption	11034000	10127000	9000000	9672000

Excess Capacity	1421000	2240000	2830000	2504000
Saudi Arabia				
Capacity	718000	741000	763000	763000
Consumption	125000	127000	131000	166000
Excess Capacity	593000	614000	632000	597000
Iran				
Capacity	312000	312000	312000	376000
Consumption	284000	215000	249000	276000
Excess Capacity	28000	97000	63000	100000
Japan				
Capacity	4333000	4493000	4591000	4624000
Consumption	3548000	3424000	3218000	3250000
Excess Capacity	785000	1069000	1373000	1374000

Analysis of trends/performance in the post POI

91. The Authority has examined performance of the domestic industry in the six months post the period of investigation, the analysis of which is tabulated below:

Particulars	Unit	Post POI
S.P. of DI	Rs. MT.	***
Trend (as compared to base year)	Indexed	131
Landed price of subject goods from Subject Countries		
Iran	Rs. MT.	17,394
Saudi Arabia	Rs. MT.	18,819
Japan	Rs. MT.	-
USA	Rs. MT.	13,867
Total Subject Countries	Rs. MT.	17,724

Undercutting		
Iran	Rs. MT.	***
Saudi Arabia	Rs. MT.	***
Japan	Rs. MT.	***
USA	Rs. MT.	***
Total Subject Countries	Rs. MT.	***
Undercutting %		
Iran	%	***
Saudi Arabia	%	***
Japan	%	***
USA	%	***
Total Subject Countries	%	***
Undercutting % (Range)		
Iran	%	10-20
Saudi Arabia	%	5-15
Japan	%	-
USA	%	25-35
Total Subject countries	%	10-20

92. The Authority notes that there is positive price undercutting from Iran, Saudi Arabia and USA in post period of investigation as well. However, there are no imports of the subject goods from Japan during the post POI period.

Volume of Imports Post POI

Import Volume	Unit	Post POI
Iran	MT	16,353
Saudi Arabia	MT	5,996
Japan	MT	-

USA	MT	302
Total Subject countries	MT	22,651
Other countries attracting ADD (**)	MT	80,229
Other Countries not subject to ADD	MT	-
Total Imports	MT	102,881

93. The analysis of data of volume of imports post POI period indicates that while there are no noticeable increase in the volume of imports from Saudi Arabia, Japan and USA, the volume of imports in the six months period post POI from Iran has increased substantially.

Causal link

94. It is noted that above facts establish that injury to the domestic industry has been caused by the dumped imports. Annexure 2 to the Rules provides as follows with regard to Causal Link:

“It must be demonstrated that the dumped imports are, through the effects of dumping, as set forth in paragraphs (ii) and (iv) above, causing injury to the domestic industry. The demonstration of a causal relationship between the dumped imports and the injury to the domestic industry shall be based on an examination of relevant evidence before the Designated Authority. The Designated Authority shall also examine any known factors other than the dumped imports which at the same time are injuring the domestic industry, and the injury caused by these other factors must not be attributed to the dumped imports. Factors which may be relevant in this respect include, inter-alia, the volume and prices of imports not sold at dumping prices, contraction in demand or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and the productivity of the domestic industry.”

95. The Authority notes from the injury analysis to the domestic industry that :

- i) The volume of imports from the subject country has increased over the base year. The share of imports from the subject countries in the total demand also increased over the base year.
- ii) The trends of cost of sales and the selling price of the domestic industry indicate price suppression which has adversely affected the profitability of the domestic industry.
- iii) The undercutting from some of the subject countries is positive.
- v) The profitability of the domestic industry has substantially declined during the POI and the injury period.

Volume and value of imports not sold at dumping prices:

96. It is noted that the domestic industry is facing injury from dumped imports from the subject countries. Statement of imports from various countries shows that the imports of product under consideration from other countries are not significant in volume. It cannot, therefore, be said that the imports from other countries have also caused injury to the domestic industry.

Contraction in demand:

97. Demand of the product under consideration has not registered any negative growth. Instead, it has increased and shown a positive growth. Thus, contraction in demand is not a possible reason which could have contributed to the injury to the domestic industry. Further, there is no reason to believe that demand is likely to decline.

Changes in the patterns of consumption:

98. The pattern of consumption with regard to the product under consideration has not undergone any change. Change in the pattern of consumption is unlikely to contribute to the injury to the domestic industry. In respect of some other countries, where volume of imports are significant are subject to anti dumping duty.

Trade restrictive practices of and competition between the foreign and domestic producers:

99. There is no trade restrictive practice which could have contributed to the injury to the domestic industry.

Developments in technology:

100. Technology for production of the product has not undergone any change nor are there any likely changes in the coming future. Developments in technology are, therefore, not a factor of injury.

Export performance:

101. The petitioning companies do not have any significant export activity. Further, information relating to domestic sales has been taken into consideration for assessment of injury to the extent possible.

Performance of other products produced and sold by the domestic industry:

102. Major petitioner companies are multi product companies. The information provided for the product under consideration does not contain any information of other products. Therefore, the performance of other products did not cause any impact over injury to the domestic industry.

Indian Industry's interest.

103. The purpose of anti dumping duties in general is to eliminate dumping which is causing injury to the domestic industry and to reestablish a situation of open and fair competition in the Indian market, which is in the general interest of the country. The Authority recognizes that the imposition of anti dumping duties might affect the price levels of the products manufactured by using the subject goods and consequently might have some influence on relative competitiveness of these products. However, fair competition on the Indian market will not be reduced by the anti dumping measures. On the contrary, imposition of anti dumping measures would remove the unfair advantages gained by dumping practices, would prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of subject goods. The Authority notes that the imposition of anti dumping measures would not restrict imports from subject countries in any way, and therefore, would not affect the availability of the product to the consumers. The consumers could still maintain two or even more sources of supply.

Magnitude of injury and injury margin

104. The Authority has determined the non-injurious price for the domestic industry on the basis of principles laid down in the Rules. This non-injurious price of the domestic industry has been compared with the landed values of the subject imports from subject countries to determine injury margin. The injury margins have, thus, been worked out as follows:

Injury Margin in Case of Co-operating Exporters

				In US\$/MT
Name of the company	NIP	Landed Price	Injury Margin	Injury Margin range in %
IRAN				
Arvand Petrochemical Company (APC), Iran / Petrochemical Commercial Company (PCC) Direct,	***	***	***	0-10
Arvand Petrochemical Company (APC), Iran – Petrochemical Commercial Company (PCC) – Petrochem Middle East FZE Dubai	***	***	***	(0-10)
SAUDI ARABIA				
Saudi Petrochemical Company (SADAF), Saudi Arabia / Saudi Basic Industries Corporation (SABIC), Riyadh	***	***	***	110-120

Saudi Petrochemical Company (SADAF), Saudi Arabia / Saudi Basic Industries Corporation (SABIC), Riyadh / STME / Petrochem Middle East FZE Dubai	***	***	***	10-20
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Non-Co-operating Exporter

Particulars	Unit	USA	Iran	Saudi Arabia	Japan
NIP	US\$/MT	***	***	***	***
Landed Price	US\$/MT	300.28	347.49	165.94	386.62
Injury Margin	US\$/MT	***	***	***	***
Injury Margin(%) range	%	15-25	0-10	110-120	Negative

Post Disclosure Statement submissions

105 Post Disclosure Statement submissions by the Domestic Industry

- a) The dumping margin for each of the subject countries is significantly beyond de-minimus except Saudi Arabia.
- b) For Saudi Arabia, producer concern exported to Indian market through two channels, producer related exporter to Indian customer and producer related exporter to unrelated exporter to India. However, one and same dumping margin has been determined for two channels, which is incorrect.
- c) The domestic industry has suffered material injury on account of subject imports and injury to the domestic industry is being caused due to dumped imports.
- d) Petitioners note the non injurious price determined and submits that the same is grossly low because of consideration of (i) captive inputs at their costs instead of market price, (ii) grant of return by considering net fixed assets, (iii) not granting higher rate of return to account for aging plants, (iv) optimization of raw materials, utilities and overhead costs. The non injurious price is required to be revised upwards.
- e) Injury margin is significant. However, the same is much below the reasonable level that is required by the domestic industry. The low injury margin is due to low non injurious price.
- f) Injury margin in case of cooperative exporters is positive except APC-PPC-Petrochem Middle East. The injury margin for all the companies would however be significantly high once the non injurious price is corrected and revised upwards.

106. Post Disclosure Statement submissions by other opposing Interested Parties

- a) The production of non-applicants constitute close to 55% of the total Indian production. Therefore, the applicants cannot be considered to be holding a major proportion of total Indian production.
- b) The grounds raised by the respondents, viz, Appellate Body's decision in EC – Certain Steel Fasteners from China PR wherein the Appellate Body has categorically held that 'major proportion' of producers means almost all producers; detailed submissions distinguishing the CESTAT ruling in Lubrizol and that non cooperative Domestic Producers must be excluded from the constituent of the Applicant Domestic Producers have not been considered.
- c) CMAI report, Harriman Chemsult and Chemical Week and Import statistics obtained from DGCI&S and IBIS cannot be claimed to be confidential.
- d) Miniscule share of subject imports in the domestic market cannot be regarded as a factor showing injury to the petitioner.
- e) Despite the increase in demand, the imports from subject countries declined. This shows that the imports have not injured the Indian producers.
- f) The price undercutting and underselling range for the respondents who are co-operating exporters should be determined separately according to the established practice of the Designated Authority.
- g) The range of undercutting by other domestic producers is far higher than the undercutting by the imports into India. This shows that the injury if any suffered by the petitioner is only due to domestic competition.
- h) Injury margin be determined considering the re-sale price of the imported goods with the NIP of the domestic industry.
- i) The rate of return for determining NIP should not exceed 10%.
- j) The domestic industry has not provided report published by Harimann Chemsult to the interested parties for their comments. Therefore, we are not able to provide our comments on capacity, unutilized capacity and consumption figures for the subject countries which are considered in the disclosure statement for likelihood analysis purposes.
- k) Since the landed value of imports from Iran was higher than the non-injurious price and selling price of the domestic industry during the POI, the injury to the domestic industry cannot be linked with imports from Iran despite of positive dumping margin.
- l) There doesn't appear to be any significant surge in the volume of exports from the Iran post POI, so as to cause injury to the domestic industry.
- m) The Authority must account the production of chlorine as a Co-product and the same must also reflect in the costing methodology applicable to the Domestic Industry.
- n) The domestic industry has been changed at every successive review stage and such picking and choosing of the domestic industry is against the spirit and letter of the

anti-dumping law, Thus, due to the incorrect constitution of domestic industry, the injury analysis ought to be deemed void ab initio.

- o) Even when market share opened up due to a decline in imports in the period of investigation, the domestic industry was unable to capitalize on it and was injured by the competitive Indian producers which are not part of the domestic industry.
- p) The mere availability of surplus capacity does not in itself ensure that there is likely to be dumping from a subject country.

Examination by the Authority

107. Submissions made by all the interested parties have been examined by the Authority hereunder to the extent these are found relevant to the present investigation:

- a) As regards arguments by the interested parties with regards to market share and the standing of the domestic industry, the same has been considered by the Authority in accordance with the provisions of Anti-dumping rules.
- b) As regards the arguments of the interested parties with regards to determination of NIP and the returns on capital employed, Authority has determine the NIP in accordance with the Anti-dumping rules and the in accordance with the consistent practice for determination of NIP in the Anti-Dumping investigations.
- c) The other submissions of interested parties with regards to volume of imports, market share, underselling, undercutting etc. have been appropriately dealt with by the Authority in its examination of injury to the domestic industry. Authority further notes that the both the dumping margin as well as injury margin in case of some of the cooperating exporters have been found to be positive. Further, in respect of some of the countries where none of the exporters have cooperated with the Authority, both the dumping margin and the injury margin have been noted to be positive.
- d) As regards the submissions of the interested parties with regards to some of the data / information which is stated to be in the public domain, has been appropriately addressed by the Authority in these findings.

Conclusion

108. Having regard to contentions raised, information provided and submissions made by interested parties and facts available before the Authority as recorded in the above findings and on the basis of above analysis of the state of continuation of dumping and consequent injury to domestic industry and likely hood of continuation of dumping and injury, the Authority concludes that

(i) The subject goods from subject countries, except France, are entering the Indian market at dumped prices and dumping margin is significant. It is also seen that the subject goods continue to be exported to India at dumped prices despite the existing anti dumping duties and there is a likely hood of its continuation should the existing antidumping duties are allowed to expire.

(ii) It is noted that without the anti dumping duties, the price undercutting and price underselling are significant from some of the subject countries. The Domestic Industry continues to suffer material injury on account of continued dumping of subject goods from subject countries during the period of investigation and there is likely hood of deterioration in the operating performance of domestic industry in the event of cessation of anti dumping duties.

(iii) The Authority considers it necessary to impose definitive anti dumping duty on all imports of subject goods from subject countries in order to remove the injury to the domestic industry. Thus, the anti dumping duties are required to be extended and modified.

Recommendations

109. 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 the margin of dumping and the margin of injury, so as to remove the injury to the domestic industry. Accordingly, definitive antidumping duty as per amount specified in Col 9 of the table below is recommended to be imposed from the date of the Notification to be issued by the Central Government, on all imports of the subject goods originating in or exported from the following subject countries.

Duty Table

Sl. No	Sub-heading	Description of goods	Specification	Country of origin	Country of Export	Producer	Exporter	Amount (US\$)	Unit of Measurement	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
1	2815.11 & 2815.12	Caustic Soda	Any grade	USA	USA	Any Producer	Any Exporter	55.96	DMT	USD
2	2815.11 &	Caustic Soda	Any grade	Any country other	USA	Any Producer	Any Exporter	55.96	DMT	USD

	2815.12			than USA						
3	2815.11 & 2815.12	Caustic Soda	Any grade	USA	Any country other than USA	Any Producer	Any Exporter	55.96	DMT	USD
4	2815.11 & 2815.12	Caustic Soda	Any grade	Japan	Japan	Any Producer	Any Exporter	Nil	DMT	USD
5	2815.11 & 2815.12	Caustic Soda	Any grade	Any country other than Japan	Japan	Any Producer	Any Exporter	Nil	DMT	USD
6	2815.11 & 2815.12	Caustic Soda	Any grade	Japan	Any country other than Japan	Any Producer	Any Exporter	Nil	DMT	USD
7	2815.11 & 2815.12	Caustic Soda	Any grade	Iran	Iran	Arvand Petrochemical Company (APC), Iran	Petrochemical Commercial Company (PCC), Iran	1.34	DMT	USD
8	2815.11 & 2815.12	Caustic Soda	Any grade	Iran	Iran	Arvand Petrochemical Company (APC), Iran	Petrochemical Commercial Company (PCC), Iran and Petrochem Middle-east (FZE), Dubai	Nil	DMT	USD
9	2815.11 & 2815.12	Caustic Soda	Any grade	Iran	Iran	Any combination other than Sl. No. 7 & 8 above		8.75	DMT	USD
10	2815.11 & 2815.12	Caustic Soda	Any grade	Iran	Any country other than Iran	Any Producer	Any Exporter	8.75	DMT	USD
11	2815.11 & 2815.12	Caustic Soda	Any grade	Saudi Arabia	Saudi Arabia	Saudi Petrochemical Company	Saudi Basic Industries Corporation	130.60	DMT	USD

	2815.12					(SADAF), Saudi Arabia	(SABIC), Riyadh			
12	2815.11 & 2815.12	Caustic Soda	Any grade	Saudi Arabia	Saudi Arabia	Saudi Petrochemical Company (SADAF), Saudi Arabia	Shell Trading (M.E.) Private Limited (STME), Dubai & Petrochem Middle-east (FZE), Dubai	Nil	DMT	USD
13	2815.11 & 2815.12	Caustic Soda	Any grade	Saudi Arabia	Saudi Arabia	Any combination other than Sl. No. 11 & 12 above		133.60	DMT	USD
14	2815.11 & 2815.12	Caustic Soda	Any grade	Saudi Arabia	Any country other than Saudi Arabia	Any Producer	Any Exporter	133.60	DMT	USD

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

111. An appeal against the order of the Central Government shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act.

Sd/-
(Smt Vijaylaxmi Joshi)
The Designated Authority