

**Ministry of Commerce & Industry**  
**Department of Commerce**  
**Directorate General of Anti-Dumping & Allied Duties**  
**Udyog Bhawan,**

**NOTIFICATION**

New Delhi, the 4th August, 2003

**Subject:** Anti dumping investigations concerning imports of Caustic Soda from China PR and Korea RP– Final Findings.

**No. 14/10/2002-DGAD** – Having regard to the Customs Tariff Act, 1975 as amended in 1995 and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, thereof.

**A. PROCEDURE:**

1. The procedure described below has been followed with regard to the investigations:-

- i. The Designated Authority (hereinafter referred to as Authority), under the above Rules, received a written application from M/s Alkali Manufacturers Association of India (AMAI) (hereinafter referred to as Petitioner) on behalf of the domestic industry, on behalf of the domestic industry, alleging dumping of Sodium Hydroxide commonly known as Caustic Soda (hereinafter also referred to as subject goods) originating in or exported from People's Republic of China and Korea RP (hereinafter referred to as subject countries). The petition was also supported by M/s. DCW Limited, Mumbai, M/s. Gujarat Alkalies & Chemicals Limited, Vadodara, Gujarat, M/s Gujarat Alkalies, Dahej, M/s Search Chern Industries Limited, Mumbai, M/s Indian Rayon and Industries Ltd., Veraval, Gujarat, M/s Grasim Industries, Nagda, M.P., M/s SIEL Chemical Complex, Patiala, Punjab, M/s Bihar Caustic & Chemicals, Ltd., Jharkhand, MIs Jayshree Chemicals Limited, Orissa, M/s Andhra Sugars Limited, Tanaku, Bilt Chemicals, DCM Sriram, New Delhi and Punjab Alkalies & Chemicals, Chandigarh.
- ii. The Authority notified the Embassies of China PR and Korea RP in India about the receipt of petition made by the petitioner before proceeding to initiate the investigation in accordance with sub rule (5) of Rule 5 supra;

- iii. The Authority on the basis of information and evidence available before it decided to initiate anti dumping investigations against imports of subject goods from the subject country;
- iv. The Authority issued a Public Notice dated 14th May 2002 published in the Gazette of India, Extraordinary, initiating anti dumping investigations concerning imports of subject goods from subject countries, falling under Chapter Heading 281511 and 281512 of Schedule I of the Customs Tariff Act 1975.
- v. The Authority notified preliminary findings vide notification dated 21st September, 2002 on anti-dumping investigation concerning imports of subject goods from subject countries and requested the interested parties to make their views known in writing within forty days from the date of its publication;
- vi. The Authority forwarded a copy of the preliminary findings to the known exporters, importers and embassies of subject countries in India requesting them to advise the producers and exporters in their countries to respond to the Designated Authority, to furnish their views, if any, on the preliminary findings within forty days from the date of its publication;
- vii. The Authority also forwarded a copy of the preliminary findings to the Embassy of China PR and Korea RP in New Delhi with a request that the exporters and other interested parties may be advised to furnish their views on the preliminary findings in the time frame as stipulated in (v) and (vi) above.
- viii. The Authority provided an opportunity to the interested parties to present their views orally on 18th February, 2003. All parties presenting views were requested to file written submissions of their views expressed. The parties were advised to collect copies of the views expressed by the opposing parties and offer rebuttals, if any;
- ix. The Authority made available the public file to all interested parties containing non-confidential version of evidence submitted by various interested parties for inspection, upon request;
- x. Arguments made by the interested parties before announcing the preliminary findings, which have been brought out in the preliminary findings notified have not been repeated herein for sake of brevity. However, the arguments raised by the interested parties subsequently have been appropriately dealt with in these findings;
- xi. In accordance with Rule 16 of the Rules *supra*, the essential facts/basis considered for these findings were disclosed to known interested parties and comments received on the same have also been duly considered in these findings;
- xii. The investigation covered the period from 1st April, 2001 to 31st March 2002. ( twelve months).

- xiii. \*\*\*\* in this notification represents information furnished by the interested party on confidential basis and so considered by the Authority under the Rules;
- xiv. Department Of Revenue, Ministry of Finance, vide OM No 354/185/2002-TRU dated 2nd May 2003 granted extension upto 13-08-2003 to complete the investigation.
- xv. Cost investigation was also conducted to work out optimum cost of production and cost to make and sell the subject goods in India on the basis of Generally Accepted Accounting Principles (GAAP) and the information furnished by the petitioner.
- xvi. Verification of cost data and dumping data of the exporters was conducted for M/s Hanwha Chemical Corporation, Korea RP and M/s Shanghai Chlor Alkali Chemical Company limited, China PR.
- xvii. Currency has been expressed in US Dollar (\$) and/or Indian Rupee (Rs).

## **B. PRODUCT UNDER CONSIDERATION**

### **1. PETITIONER'S VIEWS**

- i. The name of the product being dumped into the Indian market is Sodium Hydroxide generally known as Caustic Soda. Caustic Soda is chemically known as NaOH. It is an Inorganic Chemical classified under Chapter 28 of the Custom Tariff Act. Caustic Soda is a soapy, strongly alkaline odourless liquid widely used in diverse industrial sectors, either as a raw material or as an auxiliary chemical. It is mainly used in the manufacture of pulp and paper, newsprint, viscose yarn, staple fibre, aluminum, cotton, textiles, toilet and laundry soaps, detergents, dyestuffs, drugs and pharmaceuticals, vanaspati, petroleum refining etc. Caustic soda is produces in two forms – lye and solids. Solids can be in the form of flakes, prills, granules or any other form. All forms of caustic soda are the subject matter of the present petition.

Caustic Soda causes burn on contact with body tissues. Contact with eyes causes severe damages, swallowing results in severe injury. Caustic soda mist causes momentary stinging sensation in nose and throat. It reacts with strong acid very violently under boiling phenomena.

- ii. Caustic Soda is a basic product very widely used in diverse industrial sectors, either as a raw material or as an auxiliary chemical. It is mainly used in the manufacture of pulp and paper, newsprint, viscose yarn, staple fiber, aluminum, cotton, textiles, toilet and laundry soaps, detergents, dyestuffs, drugs and pharmaceuticals, vanaspati, petroleum, refining.

- iii. Three technologies are available world over for production of Caustic Soda. The Indian industry is producing Caustic Soda using all the three processes. The three processes are :
- Mercury Cell Process
  - Diaphragm Process
  - Membrane Process
- iv. Even though all three technologies are being used in India for manufacturing Caustic Soda, Mercury Cell technology and Membrane Cell technology are being widely used in India.

The product under consideration in the present investigation is Sodium Hydroxide, generally known as Caustic Soda. Caustic Soda is chemically known as NaOH. It is an inorganic chemical classified under Chapter 28 of the Customs Tariff Act. Caustic Soda is a soapy, strongly alkaline odorless liquid chemical. It finds application in various fields like manufacture of pulp and paper, newsprint, viscose yarn, staple fibre, aluminum, cotton, textiles, toilet and laundry soaps, detergents, dyestuffs, drugs and pharmaceuticals, vanaspati, petroleum refining etc. Caustic soda is produced in two forms - lye and solids. Solids can be in the form of flakes, prills, granules or any other form. All forms of caustic soda are subject matter of the present investigations. Lye form of Caustic Soda normally contains 47% concentration. The solid form contains nearly 98% concentration. However, these are sold on the basis of associated concentration. Both the forms are like products.

With regard to other issues raised on product, we submit as under:

1. It is a fact that production of Caustic Soda results in production of Chlorine also. The fact is well known. However, proper adjustment has been done by the domestic industry on this account and same is also in accordance with the Cost Accounting Rules.
2. Regarding common normal value for Lye and Solid, petitioners submit that the domestic industry had earlier claimed dumping considering normal value based on caustic soda lye and export price as average for lye and solid. This has, at best, resulted in lowering dumping margin.
3. Regarding participation in NALCP tender by just four domestic producers, it is submitted that the participation by just four producers does not mean that the exporters should be permitted to treat Indian market as dumping ground for their excess capacity. Prices quoted by the exporters in NALCO tender has effect extended on whole of the Country.
4. Regarding production with three different technologies, it is undisputed fact that there is no difference in final product produced from either technology.

5. Regarding adjustment of US \$ 5 pmt as per on account of Disphagram process claimed by Hanwha, as submitted earlier, assuming though not admitting that NALCO differentiates between the products with two processes, it was claim of the exporter itself that there is no difference in the product in respect of domestic sales. Petitioners, therefore, pointed out that the claim is inadmissible. However, nothing can be made out from the disclosure statement whether the claim has been accepted or rejected.
6. It is factually incorrect that all Indian producers have small capacity plants. Some of the Indian producers such as IPCL, GACL, Grasim, etc. have large scale plants. In any case, as held by CEGAT, the domestic industry is required to be seen under the conditions in which it exists and not under ideal conditions.
7. With regard to difference in quality, it is submitted that there is no quantified difference in quality of material. It is not even a claim of the exporter that there is difference in quality of Caustic Soda produced with different technology. Merely because NALCO has given preference to a product made out of a particular technology, it does not imply that there is a difference in the product based on technology.
8. It is factually incorrect that the companies participated in NALCO tender does not have sufficient capacity to meet NALCO requirement. NALCO requirement is about 100000.00 DMT per annum. DCW alone is able to meet its 60% requirement. According to NALCO itself, DCW, SPIC, Shree Rayalseema, Jayshree, Andhra Sugar can supply material to NALCO. Consolidated capacity of these producers is much higher than annual demand of NALCO.
9. With regard to information filed by the NALCO regarding offers made by the domestic industry to NALCO in last five years, it is submitted that there can not be any confidentiality for such information from domestic industry itself, except for malafide and malicious intentions. It is therefore, submitted that the same may please be disclosed to the domestic industry, so that the domestic industry can offer their comments.

## **2. IMPORTER'S VIEWS**

### **a) M/S NALCO**

- i. MANUFACTURE OF VALUABLE BY PRODUCTS ALONGWITH CAUSTIC SODA - The Petition deliberately does not disclose the fact that the process of manufacturing Caustic Soda also leads to the manufacture of Chlorine and Hydrochloric Acid. The Petition itself admits that the Petitioner is engaged in protecting the interests of the domestic producers of not only Caustic Soda but also Chlorine, which goes on to show that there is a

substantial monetary benefit obtained from the production of Chlorine. This is neither reflected in the particulars furnished by the Petition with respect to the cost of production being apportioned between the two products nor is the realisation resulting from the Chlorine mentioned therein. It is submitted that the cost realisation of the Chlorine is substantial and any Petition with respect to Caustic Soda would be incomplete without the examining the Chlorine production as regards both determination of dumping and injury. This fact is also important as the description of the domestic industry expressly specifies that all the companies are multi product companies or are engaged in the production of Caustic Soda by products. The implications on the cost of production are dealt with in greater detail subsequently in the present response.

- ii. NALCO verily believes that the Petitioner has also filed a petition for imposing Anti Dumping Duty on Chlorine. It is further verily believed that the domestic industry has sought to make out a case of dumping and injury therein by attributing the entire production cost towards production of Chlorine. In light of theafore said, it is respectfully submitted that the Hon'ble Authority in accordance with its powers under R. 8 of the Anti Dumping Rules, 1995 should seek a declaration on affidavit with respect to Chlorine petition or through such other appropriate means from the Petitioner, in order to verify the accuracy of the information furnished the in present Petition. The Hon'ble Authority has in the past sought such an assurance in the investigations initiated with respect to the import of **Iso Propyl Alcohol, Case No. 12/1/2000 DGAD**.

Subsequent to disclosure of essential facts M/s NALCO had submitted their response two days after the deadline on 1st August 2003 which covered issues such as

1. product under Consideration – General Disclosure
2. domestic industry
3. like Product
4. methodology for calculation of dumping margin
5. absence of injury
6. non injurious price And requested to terminate the proceedings.

b) M/s HLL

The following issues were raised by M/s HLL after disclosure in addition to issues such as

1. scale of imports
2. fixation of normal value for subject countries
3. injury to domestic industry

which were highlighted after public hearing in their written submissions.

- i. Partial verification of the domestic industry
- ii. Correlation between Caustic Soda and Chlorine
- iii. Repeated imposition of Anti Dumping Duty on Caustic Soda in India
- iv. Lye vs Flakes
- v. Determination of Dumping margin for Non cooperative exporter from S. Korea.
- vi. Conclusions :-

”It is respectfully submitted that the Hon'ble Designated Authority should terminate these proceedings / withdraw the duties for the following reasons:

- a. the investigation has been improperly initiated based on misleading data on the alleged dumping.
- b. consider the effect of the ECU – Caustic and Chlorine while determining the Non-Injurious Price.
- c. Withdraw the duty on the basis that there is no injury or threat thereof to the Petitioners.

It is requested that the Hon'ble Designated Authority pass all necessary and proper orders to remove anti dumping duty on the Caustic Soda imported from China and Korea RP.”

### **3. EXPORTER’S VIEWS**

#### **a) M/S TRICON ENERGY LIMITED, USA**

The product under consideration as defined by the petitioners is ‘Sodium Hydroxide’ generally known as Caustic Soda. Caustic Soda is chemically known as NaOH. It is an organic chemical classified under Chapter 28 of the Customs Tariff act. Caustic Soda is produced in two forms – lye and solids. Solids can be used in the form of flakes, prills, granules or any other form. All forms of Caustic Soda are the subject matter of the present petition.

- i. It is submitted that the petitioners have erroneously gone ahead and evolved only one Normal Value for both lye and solids, which is clearly not permissible under the Anti Dumping laws in India as the two ciA/Ta. Globally the chlor-alkali industry is being driven by the demand-supply of chlorine, unlike in India and therefore globally, Caustic Soda is considered as a by-product. Demand for Chlorine is higher than that of Caustic and many a times a part of Caustic produced in the process is wasted.

- ii. This is reflected in the fact that only 4 out of 42 domestic producers of caustic soda have participated in the NALCO tender. Furthermore it is noteworthy that none of these four were awarded any quantity in the global tender, the reasons for which are not prima facie apparent.
- iii. Caustic Soda solutions are produced as a co-product with Chlorine electrolytically by three technologies, mercury cells, membrane cells and diaphragm cells. Each of these processes utilize NaCl salt as the primary raw material. The salt is electrolytically split using direct current (DC) electricity, resulting in Chlorine and an available sodium ion ( $\text{Na}^+$ ) that is reacted with water in the cell to make Caustic Soda and by-product Hydrogen. The Hydrogen by-product produced is used as a fuel source, sold to hydrogen customers, or to produce high purity (burner grade) Hydrochloric Acid. A fourth technology that produces commercially available quantities of Caustic Soda solutions is a chemical conversion of trona ore. This process produces low quality Caustic Soda.
- iv. The mercury cell operation utilizes mercury as the cathode for the electrolytic reaction, as well as for the sodium amalgam that is reacted to deionized water to produce the Caustic Soda solution. There is essentially no wet consumption of mercury in process, as all cells are 'closed loop' with regards to mercury flow across the bottom of the cell and through the cell decomposer, where the amalgam is reacted to Caustic Soda solution. The solution produced by this process is 50052% by weight NaOH, produced directly from the cell without any additional evaporation. This process produces the highest purity Caustic Soda commercially available.

The high purity characteristic is descriptive of the very low concentrations of contaminants in the product. Salt, or NaCl, is typically less than 10 ppm, with maximum of 30 ppm. Sodium Chlorates, or  $\text{NaClO}_3$  are typically 0.5 ppm, with a maximum limit of 1 ppm. Sodium Carbonates, or  $\text{Na}_2\text{CO}_3$ , are typically 0.02 weight %, with a maximum limit of 0.06 weight %, Sodium Sulfates, or  $\text{Na}_2\text{SO}_4$ , are typically 10 ppm, with a maximum of 20 ppm.

The mercury cell produced Caustic Soda is typically referred as Mercury Cell Grade, or more commonly, Rayon Grade. Most product of rayon fiber is dependent on the availability of the high purity Rayon Grade Caustic Soda solution. Another very common use of this high purity caustic solution is for Domestic Industry water exchangers. The Domestic Industry unit resin literature often specified Rayon Grade Caustic Soda only for regeneration. One must remember that this literature was published prior to the availability of membrane cell produced solution.

- v. The Diaphragm Cell process utilizes asbestos, or alternate substitutes to asbestos, to separate the co-products Caustic Soda and Chlorine. The



production of 50% Caustic Soda occurs primarily outside of the electrolytic cell. The diaphragm cell produces a very weak 'cell liquor' which contains 12-14% by weight, NaOH and roughly the same concentration NaCl salt. The 'cell liquor' is subsequently evaporated in a three or four effect' evaporation process to final nominal concentration of 50% NaOH by weight (49-52% range). The excess salt is precipitated and filtered through the evaporation process for subsequent reuse/recycle. The process produces the lower quality electrochemical Caustic Soda solution.

The quantity considerations with respect to the diaphragm cell produced Caustic solution include relative high salt, chlorates, carbonates, and sulfates. Salt as NaCl, concentrations are typically 1.0% with maximums ranging from 1.1 to 1.3 weight %, depending on producer. Sodium Chlorates are typically 0.15 weight %, with a maximum of 0.3 weight %. Sodium Carbonates are typically 0.1 weight %, with a maximum of 0.2 weight %. Sodium Sulfates are typically 0.01 weight %, with a maximum of 0.02 weight %.

The diaphragm cell produced Caustic Soda is often referred to as Diaphragm Cell Grade. It is also called Commercial Grade, Technical Grade, and occasionally Technical Diaphragm or other similar combination.

An additional 'Grade' of Caustic Soda produced by the diaphragm cell process is the purified Grade. The production of Purified Grade involves the further evaporation of the 50% Diaphragm Grade Caustic Soda solution to reduce the salt concentration. The higher Caustic Soda concentration forces precipitation of the salts, which are soluble in Caustic Soda solution in an inverse relationship. The higher concentration solution is then re-diluted to the 50% concentration that is commercially available as Purified Grade Caustic Soda.

Common uses include process and wastewater neutralization, textiles production, soaps and detergents and aluminum production. These uses and applications generally will refer to the Caustic Soda as any of the various grades previously addressed, dependent on supplier's terminology.

- vi. The membrane cell process utilises a selective membrane that separates the Chlorine and Sodium ions. The membrane allows the Sodium ion to 'migrate' across the membrane while keeping the Chlorine gas and salt (brine) solution in a compartment on the other side of the membrane. The sodium ion is reacted with purified water as in the mercury cell to produce the Caustic Soda. The solution produced by the membrane cell process is nominally 33-35 weight %. Evaporation is utilized, as in the diaphragm process, to raise the concentration up to the nominal 50 weight % solution suitable for shipments. The salt

concentrations are not concentrated as significantly in this evaporation process due to the selective osmotic nature of the membranes as well as the reduced amount of evaporation required in this process opposed to the diaphragm evaporation. Minute quantities of salt do migrate across the membrane, concentrating up to the maximum 75 ppm. Note that other producers employing the membrane cell technology may have a higher maximum limit of 100 ppm on the allowable salt concentration in the Caustic Soda solution.

The high purity characteristic is descriptive of the low concentrations of contaminants in the product. Salt, or NaCl, is typically less than 30 ppm, with a maximum of 75 ppm. Sodium Chlorates, or NaClO<sub>3</sub> are typically 3 ppm, with a maximum limit of 5 ppm. Sodium Carbonates, or Na<sub>2</sub>CO<sub>3</sub> are typically 0.03 weight%, with a maximum limit of 0.05 ppm. Sodium Sulfates, or Na<sub>2</sub>SO<sub>4</sub>, are typically 15 ppm, with a maximum of 20 ppm. Note that these limits are Olin specific, with some slight deviation to be expected amongst the various membrane cell operation.

The Caustic Soda produced by the membrane cell process is most commonly referred to as membrane Grade.

- vii. It is a well known fact within the Caustic Soda production, consumption and trading industry that the cost of caustic soda is linked to the cost of chlorine, as both are produced during the same process. In effect when chlorine prices are high, caustic soda prices are low and vice versa. It is a well known fact that during the POI, chlorine prices globally were at an all time high and consequently caustic soda prices were at historic lows.
- viii. It is respectfully submitted that M/s Tricon Energy Limited sold caustic lye in India pursuant to a global tender dated 31.8.2001 for 1,00,000,00 DMT, plus/minus 5% (on 1000 NaOH basis)
- ix. Two alternatives were offered and M/s Tricon Energy were awarded the tender to supply 30,000 DMT plus/minus 5% of caustic soda lye on 100% NaOH basis. This caustic soda was to be produced by the diaphragm method which is typically USD 5 cheaper than caustic soda lye produced through a membrane method. This fact was recognized in the tender document itself wherein it was noted that “for comparison of prices of mercury/membrane grade with that of diaphragm grade caustic soda lye, a financial loading of USD 5 per DMT shall be loaded in the price of the diaphragm grade”
- x. It may be pertinent to note that DMT means dry metric tonne. Caustic Soda Lye being in a liquid form will contain caustic soda plus water. To obtain caustic soda on DMT basis the water will have to be evaporated. Typically, for example obtain 500 DMT of caustic soda on 100% NaOH basis, 1000 MT of caustic soda lye will be shipped in a soluble form. When evaporated, it will result in 500 DMT of caustic soda on 100% NaOH basis.

- xi. M/s Tricon Energy Limited, represented M/s Hanwha Chemical Corporation in the aforesaid tender. M/s Tricon Energy Limited inter alia put up the earnest money deposit and the performance guarantee bond. In addition to this there were several other requirements of the tender which were fulfilled by M/s Tricon Energy Limited.
- xii. The main response has been filed by M/s Hanwha Chemical Corporation, which accurately reflects the role played by M/s Tricon Energy Limited on a purely documented and commercial manner. To explain this position briefly, M/s Tricon Energy Ltd., contracted with M/s Hanwha Corporation for supply of 30000 DT +/- 5% at USD 189.36/DMT CFR vizag as per Sale and Purchase contract dt. December, 10, 2001. Proforma Invoice for L/C opening was however issued by Hanwha Corporation at USD 184.79/DMT CFR Visakhapatnam for adjustment of USD 4.57/DMT from previous transaction between M/s Hanwha Chemical Corporation and M/s Tricon Energy

The following issues were highlighted after Disclosure

- a. Determination of Dumping Margin
- b. Partial verification of the Domestic Industry
- c. Repeated Imposition of Anti Dumping Duty on Caustic Soda in India
- d. Conclusions :

“Designated Authority should recommend a combination duty for M/s Hanwha & M/s Tricon and any other combination should attract residual duty.”

b) M/S HANWHA CHEMICAL CORPORATION, KOREA RP

- i. Hanwha group is one of the top ten conglomerates from the Rep. Of Korea. Further Hanwha Chemical Corp. is the manufacturers of the Caustic Soda, which is being sold in the overseas market through the group's trading window (Hanwha Corp., Seoul, Korea) and some other traders (if any, for example in present case the cargo sold to NALCO through M/s Tricon-Energy, USA).
- ii. Our plants are fully integrated plant as against this the local makers in India (the petitioners) are running the smaller capacity plants where they are not able to effectively manage the output of Chlorine and thereby making hue and cry about their higher cost of production of Caustic Soda.
- iii. In a Chlor Alkali unit, from the common salt primaril we get two things, Caustic Soda and Chlorine, now, if Chlorine (which is a commodity which cannot be trade in the international market due to its extremely hazardous nature) cannot be used in some other effective way (like production of product like Epichlorohydrin and EDC -> VCM> PVC) the burden of Chlorine prices would be reflected on Caustic Soda.

- iv. Caustic Soda is a commodity; the general price reference is drawn from the Electric Chemical Unit, also known as ECU (this includes the Caustic Soda + Chlorine). Further in case of global size plants, the prices are influenced by various factors. The main factors are as follow :  
+ the price movements of EDC>VCM>PVC
- v. For all the above two factors one of the basic raw materials is Chlorine – now, if the international market demands more PVC, it means that the demand of Chlorine is high, now to produce more Chlorine, more of Caustic Soda will be generated. So, while looking into the pricing factors, the other related factors may kindly be looked into before coming to any conclusion and determination of prices.
- vi. Further the global practice is to produce primarily Chlorine and thus Caustic Soda as by-product, whereas in India is seems to be otherwise.

c) CHLOR SHANGHAI CHEMICAL CO. LTD., PR CHINA

- i. The exporter has filed exporter questionnaire and have mentioned that this is company limited by shares duly established in accordance with the Company Law in China which independently operates business and production activities and selects suppliers and customers and develops sales market acceptance to the signals of the market.
- ii. The respondents have claimed a market economy/individual treatment.
- iii. The exporter has indicated that the respondent quotes the export price according to the terms and conditions of its trading company in Hong Kong who then passes the sales documents to its customers in Japan which are reinvoiced to the Indian customers.
- iv. Hong Kong company is acting on a commission basis.
- v. It has also been requested that comparison should be made at appropriate percentage on caustic soda basis and that 99% subject goods be excluded.
- vi. The exporter has provided transactions of the domestic sales during POI of the subject goods and the associated export prices to India along with the relevant cost of production details.

#### 4. EXAMINATION BY AUTHORITY

The product under consideration in the present investigation is Sodium Hydroxide (chemical nomenclature NaOH), commonly known as Caustic Soda originating in or exported from Korea RP and PR China. Caustic Soda is an inorganic, soapy, strongly alkaline and odourless chemical and finds application in various fields like manufacture of pulp and paper, newsprint, viscose yarn, staple fibre, aluminium, cotton, textiles, toilet and laundry soaps, detergent, dyestuffs, drugs and pharmaceuticals, petroleum refining etc.

Caustic Soda is classified under chapter 28 of the customs Tariff Act, 1975 under Customs head 2815.11 and 2815.12. As per ITC Eight Digit classification, the product is classified under the Custom Heading 2815.1101, 2815.1102 and 2815.1200.

Caustic Soda is produced in two forms, i.e. lye and solids by three technology processes, i.e. mercury cell process, diaphragm process and membrane process. Liquid form can be converted into solid and the solid form can be reconverted into liquid with ease and without any change in the chemical properties of the product. The solid form has ease of storage and transportation whereas the liquid form has easy solubility. For end use both the forms are substitutable and interchangeable.

Caustic Soda can be imported under OGL and attracts a basic customs duty of 35%. The present investigation covers all forms of caustic soda.

The Authority notes that it has been mentioned by various interested parties that the three different types of production process of caustic soda produces different concentration of caustic soda. It has also been indicated that the Membrane type process is used by a very few producers in India.

The Authority however notes that both M/s Tricon Energy Ltd., USA and M/s Hanwha Chemical Corporation, Korea RP have indicated an adjustment of US\$ 5 /MT on the basis of the membrane technology as indicated in the NALCO'S tender. The Authority therefore notes that M/s NALCO has loaded an adjustment of US\$ 5/MT for such a technology depending on its own requirements and the Authority has appropriately considered this adjustment while evaluating the dumping margin for M/s Hanwha Chemical Corporation. Therefore the Authority notes that the difference in terms of quality can best be addressed by way of appropriate adjustment as and when evidenced and claimed. The adjustment granted to M/s Hanwha Chemical Corporation has been for the purpose of final determination. The Authority also notes that the investigation covers all forms of caustic soda both Lye and flakes and all are different forms of the same subject goods and are used substitutable, depending on the requirement of the user. The two forms in various concentrations are therefore the subject matter of the investigation. Further the authority, for the purpose of dumping margin, has made appropriate comparisons on DMT basis only.

## **DOMESTIC INDUSTRY**

### **1. PETITIONER'S VIEW**

- i. DCW Limited a multi product company involved in production of various products such as Soda Ash, Caustic Soda (Lye, Solid and flakes), Calcium Chloride, Soda Bicarbonate, Aluminum, Bicarbonate, Salt etc.

- ii. Gujarat Alkalies & Chemicals Limited is also a multi – product company involved in production of wide range of products which include Caustic Soda, Chlorine Gas, Hydrochloric Acid, Hydrogen gas, Sodium Cyanide, Sodium Hydrochloride, Sodium Ferrocyanide, Methyl Chloride, Chloroform, Carbon Tetrachloride, Potassium Hydroxide, Potassium carbonate, Phosphoric Acid, Hydrogen Peroxide etc.
- iii. Search Chem. is a subsidiary of United Phosphorus Limited. SCIL is a multi product company involved in production of various chemicals such as Yellow Phosphorus, Iso Propyl Bormide, Thio di Phenol, Methylene Gluotaronirite, Acetyl Bromide, Para Nitro Benzyl Alcohol and Triphenyl Phosphorus Thionate etc. The company is also involved in production for Power i.e. Electricity.
- iv. Grasim Industries Limited is a flagship company of Aditya Vikram Birla Group. Grasim Industries Limited is a multi product, multi location and well diversified company involved in production of various products such as Viscose Staple fibre, White Cement, Sulphuric Acid, Carbon Domestic industry Sulphate, Rayon grade pulp, Paper, Stable Bleaching Powder, Man Made Fibre Fabrics, Man Made Fibre Yarn, Gray Cement, Articles of Cement Concrete, Industrial Machinery, Poly Aluminum Chloride, Chloro Sulphonic Acid, and Sponge iron, etc.
- v. Andhra Sugars Limited is a multi product, multi location company involved in production of Sugar, Acetic Acid, Industrial Alcohol's, Sulphuric Acid, Superphosphate, Chlorosulphonic Acid, Oleum, Aspirin, Carbon Dioxide, Alum, Diffusers, Chemical Equipment, Sugar Factory Boiling House Equipment's Unsymmetrical Dimethyl Hydrazine, Cotton Seeds etc, Richburn and oil cakes processing, Refinery, Hydrogenation of oils, cattle and poultry feed, wind power, electricity, etc.
- vi. Bihar Caustic, Jayshree Chemicals, and SIEL (Chemical Complex) are involved in production of Caustic Soda and it's by-products only.
- vii. The petition was filed by Alkali Manufacturers' Association of India. A number of Indian producers of Caustic Soda specifically consented to participate and provided all relevant information desired by the Designated Authority. The companies who provided the information constitute a major proportion of Indian production and hence constitute domestic industry within the meaning of the Anti Dumping Rules.
- viii. The present investigation is not NALCO centric Investigation. It is not denied that NALCO consumes significant quantity. However, it needs to be noted that NALCO consumption is just about 6-7% of Indian Demand. The present investigation covers all imports whether by NALCO or others.

No fresh information was added after the disclosure statement was issued.

## 2. IMPORTER'S VIEW

### a) M/S NALCO

- i. The inclusion and support of the domestic producers mentioned in the Petition does not disclose the true factual picture with respect to the act solely responsible for the present Petition i.e. the NALCO tender. An examination of the NALCO tender in question (**the Tender**) and the other tenders of NALCO in the past would clearly disclose the absence of any cause of action in favour of the domestic producers specifically supporting in the Petition. The industries expressly supporting the present Petition have not in past participated in the tenders of NALCO due the cost logistics arising from their geographical location. The members of the domestic industry who have participated in the tender process have either insufficient quantities to satisfy the tender quantity or have expressed their inability to transport the quantity. A detailed description of the logistical problems is set out herein below.
- ii. NALCO's annual requirement of Caustic Soda for manufacture of Alumina is approx. 100,000 DMT on 100% NaOH basis. The Caustic Soda is purchased in lye form with approx. 50% NaOH content. As such, total quantity of Liquid Caustic Soda required by NALCO works out to 200,000 MT.
- iii. The problem associated with supply of caustic soda of NALCO is that its alumina plant is located at Damanjodi, which is at a higher altitude. Therefore the railway does not allow 4 wheel wagons for dispatch to Damanjodi and thus supply can only be made through 8 wheel wagons with air break system. Such wagons being not available with railway, therefore none of the Caustic Soda domestic manufacturers can supply NALCO by rail.
- iv. Given the peculiar nature of Caustic Soda and as also admitted in petition i.e. a quantity of Caustic Soda supplied would be twice the amount needed under a tender, at 50% NaOH basis, even supply by road tankers is not an economically viable option. A road tanker can carry only limited quantity of approximately 5 – 6 DMT (10 – 12 Liquid MT Caustic Soda). Therefore, only industries, which are geographically proximate from Damanjodi like M/s. Andhra Sugar, M/s Rayalaseema (in Andhra Pradesh) and M/s. Jayshree Chemicals in Orissa, are able to use the road route option. Even with respect to the aforesaid industries the quantity supplied are small for reasons mentioned above.
- v. Accepting larger quantity by road is problematic for unloading at plant given the quantity supplied in a tanker. For supply of 2,000 DMT in a month number of tankers to be handled works out to 400 nos. i.e. 16 – 20 tanker a day. As such, accepting more tankers will be physically improbable because for supply by tankers, samples are required to be collected from each tanker and analysed

for specification confirmation and weighment. The process of verification is time consuming and involves additional cost for testing.

- vi. The major supply to NALCO comes through the Vizag port from sea, where it has its own Caustic Soda storage tanks to store approx. 30,000 Liquid MT. NALCO uses its own railway tank wagon for transporting Caustic Soda from Vizag to Damanjodi. As regards supply by sea only 2 domestic suppliers namely M/s DCW and M/s SPIC had offered to use the sea route. **It is stated that none of the domestic manufacturers on western coast of India including but not limited to those supporting the Petition have offered to supply Caustic Soda using the sea route to NALCO due to high freight element.** M/s IPCL had once offered to sell Caustic Soda to NALCO subject to the condition that NALCO should arrange for lifting the same from the IPCL plant, which was not acceptable to NALCO given the logistic problems in transportation mentioned above. It is further stated manufacturers on the western coast either do not have arrangements for shipment by sea or sea freight to Vizag and are unable to supply Caustic Soda to NALCO.
- vii. In light of the aforesaid the Petitioner's true motivation of seeking the support of the domestic producers mentioned is adequately borne out, namely to ride on the shoulders of the industries not actually supplying NALCO and to ensure that the Petition does not suffer from the lack of numbers required to fall within the definition of domestic industry under R. 2(b) of the *Custom Tariff (Identification, Assessment and Collection of Duty or Additional Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (the Anti Dumping Rules)*. The aforesaid rule sets out the definition of "domestic industry" and requires that the domestic producers filing the Petition should constitute **a major proportion of the total domestic production**. Though the domestic producers constitute a major proportion of the domestic production the definition of domestic industry in the facts and circumstances of the present case would have to be determined in accordance with the proviso to the aforesaid rule under sub clause (ii), which reads as follows :

“ Provided that in exception circumstances referred to in sub rule (3), of Rule 11, the domestic industry in relation to the article in question shall be deemed to comprise two or more competitive markets and the producers within each of such market would constitute a separate industry if –

(i) the demand in the market is not in any substantial degree supplied by the producers of the said article located elsewhere in the industry”

- viii. Therefore the investigation of the Hon'ble Authority should be confined to the domestic producers actually participating in the NALCO tenders in the past i.e. from 1994-95 to 2001-2002. The capacity utilisation, cost of production and



injury determination should be sought specifically from the aforesaid producers. A table listing out the various domestic producers who have supplied/offered to supply NALCO along with the quantity offered is provided on confidential basis.

### **3. EXPORTER'S VIEW**

- i. The petitioners claim that the petition is being filed by M/s Alkaline Manufacturers Association of India. Further in the petition, "participating companies" data is produced for the injury analysis.
- ii. It is respectfully submitted that this is contrary to the Anti Dumping laws and practice in India. All the supporting petitioners must provide full and complete data for this proceeding. Clearly data of "participating companies cannot be the basis for injury to the industry as a whole. In fact it may well be the case that the data of the "non participating companies" might indicate that there is no injury at all.

### **4. EXAMINATION BY AUTHORITY**

The petition has been filed by M/s Alkali Manufacturers Association of India on behalf of the domestic industry. The petition has been supported by M/s DCW Limited, Mumbai, M/s Gujarat Alkalies & Chemicals Limited, Vadodra Gujarat, M/s Gujarat Alkalies, Dahej, M/s Search Chem Industries Limited, Mumbai, M/s Indian Rayon and Industries Ltd., Veraval, Gujarat, M/s Grasim Industries, Nagda, M.P, M/s SIEL Chemical Complex, Patiala, Punjab, M/s Bihar Caustic & Chemicals, Ltd., Jharkhand, M/s Jayshree Chemicals Limited, Orissa, M/s Andhra Sugars Limited, Tanaku, Bilt Chemicals, DCM Sriram, New Delhi and Punjab Alkalies & Chemicals, Chandigarh. None of the domestic producers has opposed the petition.

The Authority notes that various interested parties have mentioned that only a limited number of domestic producers participated in the NALCO's tender and that shipping the goods to NALCO by domestic producers is a costly affair because of the high inland freight. It has been indicated that the Domestic Industry definition be limited to these producers who have actually participated in NALCO's tender. The Authority does not consider this argument appropriate since NALCO happens to be only one of the consumers of caustic soda. Also the Authority notes that inability to supply in a cost effective manner to NALCO is a matter to be appropriately considered under injury examination and not to be addressed for the scope of the Domestic Industry. Also the Authority notes that in any event of any displacement of the domestic producers situated in proximity to NALCO, the injury occurring to them would eventually be transmitted to the other domestic producers. However the dumping of goods and their imports by NALCO is to be appropriately addressed as per Anti

Dumping Rules. Therefore the argument of the interested parties that suppliers and non-suppliers to NALCO from two different competitive market does not hold merit.

The Authority also notes that the domestic producers who have supported the petition constitute more than 50% of the total domestic production and therefore have the standing to file the petition on behalf of the domestic industry as per Rule 5(3) (a) and (b) of the Anti-Dumping Rules and also represent Domestic Industry in terms of Rule 2(b).

## **LIKE ARTICLE**

### **1. PETITIONER'S VIEW**

- i. There is no difference in the Caustic Soda produced by the Indian industry and imported from China and Korea. Caustic Soda produced by the Indian industry in general and the participating companies in particular is comparable in terms of characteristics such as physical & chemical characteristics, raw material composition, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers have used the two interchangeably. Caustic Soda produced by the domestic industry should be treated as like article to Caustic Soda imported from subject countries within the meaning of the anti-dumping Rules.
- ii. As discussed earlier in this petition, world-over, Caustic Soda is being produced by three processes. Indian industry is also producing Caustic Soda using all the three processes. However, difference in process does not mean difference in the product in terms of its physical & chemical properties, product specifications, marketing, pricing, consumer perceptions, tariff classification, etc.
- iii. No fresh information was added after the disclosure statement was issued.

### **2. IMPORTER'S VIEW**

#### **a) M/s NALCO**

- i. It is submitted that the Custom Tariff classification deals with that Caustic Soda under Tariff 2815.11 relating to solid Caustic Soda and 2815.12 relates to liquid Caustic Soda. Though in the present petition under Part-1, Para-3, the petitioner has mentioned that Caustic Soda produced in India are predominantly produced by using Mercury cell technology and Membrane cell technology, but the details of these technologies have not been intentionally furnished in the petition. Whereas the same domestic producers while filing Anti Dumping

- petition for imposition of Anti Dumping duty on Caustic Soda imports from Qatar had set out the manufacturing process under both the technologies.
- ii. A perusal of the process description in the earlier petition, discloses that the process of manufacture of Caustic Soda results in the production of three distinct products i.e. Caustic Soda Liquid, Chlorine and Liquid Hydrochloric Acid. It may be mentioned here that for every 1 MT of Caustic Soda manufactured, approximately 0.8 MT of Chlorine is also produced. The Caustic Soda come out of the process is in liquid form having NaOH concentration of around 47% - 50% and balance is water. Thereafter, liquid Caustic Soda has to be further processed in order to manufacture solid Caustic Soda in the form of Flexes/Pearls. As stated herein above the Petitioner has deliberately not disclosed the fact that the process of manufacture of Caustic Soda, results in the production of two commercially valuable co-products i.e. Chlorine and Hydrochloric Acid. It is further stated that the Petition does not disclose the additional process involved for converting Liquid Caustic Soda to Solid Caustic Soda with the intention to conceal the actual cost of production of Solid and Liquid Caustic Soda and the Petitioner is put to strict proof thereof.

### **3. EXAMINATION BY AUTHORITY**

The Authority notes that the petitioner has claimed that the goods produced by them are like article to the goods produced, and exported from the subject country. Also both are technically and commercially substitutable and the consumers are using the domestically produced and imported goods interchangeably. It has been indicated that the Caustic Soda is processed by three processes viz. Mercury cells process, diaphragm process and membrane process world over. The difference in these processes does not mean difference in product in terms of various characteristics. Also there is no significant difference in the cost of production for the three processes. The petitioner has claimed that the goods produced by them and those exported from the subject countries are like article within the meaning of the Rules. The Authority in view of submissions made by other interested parties and keeping in view the substitutability and interchangeability of the goods exported from subject countries and those produced by the Domestic Industry, considers the subject goods exported and the domestically produced subject goods as like article as per Rule 2(d).

### **MARKET ECONOMY TREATMENT :**

**Petitioners view:** .....It is evident from the above that the exporter had not provided any further information after preliminary findings and yet the Designated Authority has chosen to reverse the preliminary findings.

We submit that there are various parameters laid down in the rules, which clearly specify what needs to be examined by the Designated Authority before giving MET to a company situated in non market economy. Evidently, there is no disclosure on various parameters.

In the instant case, neither the exporter has furnished non confidential version of the information provided either before or during or after the visit of the Officials nor the disclosure statement makes sufficient disclosure. Petitioners are in complete dark in terms of what kind of information has been provided by the exporter and defend their interests. It is earnestly submitted that sufficient disclosure with regard to each and every parameter is required so that the petitioners can offer their comments.

In view of the above, petitioners submit that granting of MET to the exporter is unsustainable and is contrary to various decisions of the Designated Authority and CEGAT in similarly placed situations.

**Examination by Authority :** The authority has examined the submission made by the interested party with regard to the treatment of the cooperating exporter as Non Market/ Market economy entity in China PR. Relevant Rules governing such treatment are as under:

(Position Under Indian Law at time of initiating matter):

*Rule 8. (1) The term "non-market economy country" means any country which the designated authority determines as not operating on market principles of cost or pricing structures, so that sales of merchandise in such country do not reflect the fair value of the merchandise, in accordance with the criteria specified in sub-paragraph (3)*

*(2) There shall be a presumption that any country that has been determined to be, or has been treated as, a non-market economy country for purposes of an anti-dumping investigation by the designated authority or by the competent authority of any WTO member country during the three year period preceding the investigation is a non-market economy country.*

*Provided, however, that the non-market economy country or the concerned firms from such country may rebut such a presumption by providing information and evidence to the designated authority that establishes that such country is not a non-market economy country on the basis of the criteria specified in sub-paragraph (3).*

*(3) The designated authority shall consider in each case the following criteria as to whether :*

*(a) the decisions of concerned firms in such country regarding prices, costs and inputs, including raw materials, cost of technology and labour, output, sales and investment, are made in response to market signals reflecting supply and demand and without significant State interference in this regard, and whether costs of major inputs substantially reflect market values;*

*(b) the production costs and financial situation of such firms are subject to significant distortions carried over from the former non-market economy system, in particular in relation to depreciation of assets, other write-offs, barter trade and payment via compensation of debts;*

*(c) such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms, and*

*(d) the exchange rate conversions are carried out at the market rate:*

*Provided, however, that where it is shown by sufficient evidence in writing on the basis of the criteria specified in this paragraph that market conditions prevail for one or more such firms subject to anti-dumping investigations, the designated authority may apply the principles set out in paragraphs 1 to 6 instead of the principles set out in paragraph 7 and in this paragraph".*

The Authority notes that the WTO gives the option of treatment of China for the purposes of application of Anti Dumping or subsidy measures to the Member state.

1. A perusal of the entire clause above show that there is nothing to preclude a WTO Member from granting full market economy treatment to China or partial market economy treatment to companies or exporters from China. In fact, a Member is also empowered to grant market economy status to China as a whole.
2. The Indian law clearly provides that the companies operating in China can be treated as Market Economy if they satisfy the conditions laid down under the Rules.
3. With the onus shifted on the party claiming the market economy status, the Indian law, clearly prescribes the criteria prior to any company/entity getting market economy status from a Non-Market economy.
4. On each of the four criteria as per para 8 of Annexure I of Anti dumping Rules, the exporters provided detailed submissions which were verified by the Authority.
5. In light of the above, giving market economy treatment and accepting the cost of production supplied by the cooperating exporter from China, who has fulfilled the criteria for market economy treatment in accordance with the laws

of India is fully within the powers of the Designated Authority and compatible with India's commitment to the WTO.

The Authority has examined the status of the only cooperative exporter M/s Shanghai Chlor Alkali Chemical Company limited from China PR in light of the above. The response and documents provided by the exporter at their premises were examined and verified.

M/s Shanghai Chlor Alkali ltd.

1. The company, formally known as Shanghai Chlor Alkali Chemical Complex, was originally established in 1959 as a state owned enterprise of the PRC under the name of Shanghai Electro Chemical Plant. On 4th July 1992, pursuant to the approval granted by the Shanghai Municipal Peoples Government, the company was reorganised into a joint stock limited company.
2. China PR have the following Laws in place which are followed by detailed regulations and procedures which M/s Shanghai Chlor Alkali is subjected to:
  - a. Accounting Criteria for Enterprises
  - b. Costing Rules
  - c. Accounting Law and Audit Law of PRC
  - d. Budget Law
  - e. Enterprise income tax Law
  - f. Individual income tax Law
  - g. Production safety Law
  - h. Regulation on imports and Exports of Goods
  - i. Regulation on management of Foreign exchange
  - j. Securities Law
  - k. Law of Land Administration
  - l. Company Law
  - m. Labour Law
  - n. Law of commercial Bank
  - o. Shanghai Investment
  - p. Shanghai Foreign Trade.
3. All prescribed accounting books and financial statements are being maintained and translated to English where necessary. The Annual Accounts are printed both in Chinese and English. The accounts are audited by an external auditor ( M/s Horwath China, Shanghai), Certified public accountant. The accounts are in line with Chinese accounting standard, international accounting standard and GAAP. The Auditor's certificate indicates that the financial statement are in conformity with the accounting standard for the enterprises and

accounting regulation of the PRC for foreign investment enterprises. A cost accounting system is in place.

4. It has been observed that Shanghai Chlor Alkali is governed by the PRC civil procedures court which deals with procedure for bankruptcy and debt repayment of enterprises with Legal personality. The provisions of this Code guarantee legal certainty and stability in the operation of the firm Article 199, by granting recourse to the Courts of law, ensures a measure of protection to creditors, in case of any major losses suffered. In like manner M/s Shanghai Chlor Alkali too, can approach the Peoples' Court to obtain a declaration of bankruptcy, in the event of its inability to pay off its debts. In this way the right and claims of creditors are protected, as they would similarly be protected in market economy country.
5. It has been observed that the company procures raw materials and utilities at market rate not influenced by any state interference. The sales price are also decided after negotiations. The cost of inputs, including raw materials, cost of technology and labour, output, sales and investment, are made in response to market signals reflecting supply and demand and without any State interference in this regard, and that cost of major inputs substantially reflect market values. There seem to be no distortions in the production costs and financial situation of Shanghai Chlor Alkali in particular in relation to depreciation of assets, other write-offs, etc. There is no barter trade or compensation trade.
6. The People's Bank of China announces the exchange rate of Renminbi(RMB) against major currencies on the basis of the prevailing exchange rates in the inter- bank foreign exchange market. All exchange rate conversions are conducted according to generally applicable exchange rates published by the People's Bank of China. The Company is not restricted in buying foreign currencies or converting foreign currency into Chinese currency.
7. Major decisions concerning the future development of the company and personnel are taken by the Board of Directors(BOD) . The members of the BOD are appointed by the Chinese shareholders, capital increases or changes in the ownership have to be registered with MOFTEC but they are not subject to its approval. The shareholders meeting takes place once a year in order to appoint the members of the BOD which is the decision making authority of the company.
8. Shares of the company are traded in the Shanghai Stock exchange. Value of the shares fluctuates on day to day basis driven by the market forces.
9. The Company has also got a consistent credit rating "A" for the last three years. This rating is third best in a scale of nine.
10. The company has also got ISO 14001, 9001 and 9002 certifications for environmental management system, quality management system for design, production, sales and servicing of products manufactured by the Company.

11. The above factors conclude that M/s. Shanghai Chlor Alkali is operating in market economy conditions as laid down under Rule 8.

### **Methodology for calculation of Dumping Margin**

Normal value in relation to an article implies

- a. Comparable price, in ordinary course of trade, for the like article when meant for consumption in the exporting country or territory.
- b. When there are no sale of the like articles in the ordinary course of trade in the domestic market of the exporting country or territory, or because of the particular market situation or low volume of the sales in the domestic market, of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either
- c. Comparable representative price of the like article when exported from the exporting country or territory to an appropriate third country, or
- d. The cost of production of the subject goods in the country of origin along with reasonable addition for the administrative, selling and general costs and for profits, as determined in accordance with the rules made under sub-section (6)

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

The Authority sent questionnaires to all the known exporters for the purpose of determination of normal value in accordance with section with 9A(1)(c) of the Custom Tariff Act.

## **DUMPING**

### **1. PETITIONER'S VIEW**

- i. Producers in from China and Korea are involved in dumping the goods in India. The dumping has been largely resorted through traders in third Countries. However, the supplies were planned directly from these Countries.
- ii. Caustic Soda is a basic inorganic chemical and is used by a number of industries as raw material. It is primarily traded in bulk quantity and, therefore, the shipments are normally directly from the countries of origin. However, in the instant case and particularly in the tender floated by NALCO for purchase



- of very significant volumes, traders in third Countries have participated wherein the supplies have to be made directly from the subject countries.
- iii. NALCO had recently floated a tender for 100000 MT of Caustic Soda. A number of exporters participated in the tender floated by NALCO. The quantity of the tender floated is very significant.
  - iv. Exporters from subject countries as well as other country against which investigation is under progress or which are now attracting duties participated in the tender. Details of the tender floated, exporter's name, agent's name, quantity offered, price offered, revised price offered, negotiated price at which order has placed by NALCO, landed value of imported material etc. are given in the "tender detail".
  - v. It may be seen that NALCO has placed its orders for 87000 MT, which is more than combined imports of Caustic Soda in a year in India.
  - vi. In addition to China and Korea RP, exporters and producers from Indonesia are also dumping Caustic Soda in the Indian market. It is the market information of the domestic industry that around 3500 MT material is shortly landing the custom port in India. It would be worthy to mention here that earlier the domestic industry had filed a petition for imposition of Anti Dumping Duty *inter-alia* on Indonesia. However, the investigations were not initiated against Indonesia. Getting benefit of the situation i.e. imposition of Anti Dumping Duty against some other countries and no duty on imports from Indonesia, the producers and exporters from Indonesia have now found this a good opportunity to dump the material at times of serious decline in the export price from several countries and faced with surplus unutilized capacity.
  - vii. Efforts were made to get information on prices at which Caustic Soda is being sold by the exporters from Korea RP in their domestic market. We have also made efforts to get price lists of the exporters or price evidence for their exports to other countries or any other information from the published sources. We have been able to get information about the prices in domestic market of Korea RP from a leading international Journal. Reliance is being placed on the information published in the Chlor Alkali in this regard.
  - viii. Chlor alkali regularly reports the prices of Caustic Soda in the domestic market in Korea. Thus, considering the prices given in the Chlor Alkali, calculation of normal value in Korea RP have been done. The normal value on this basis comes to US \$ 227 pmt in case of Korea RP.
  - ix. Massive dumping of Caustic Soda in the Indian market is causing material injury to the domestic industry. Further, the order placed by NALCO would cause further material injury to the domestic industry, as may be seen from the para on "Evidence of Injury".

- x. With regards to M/s Hanwha Chemical Corporation Korea RP the domestic industry had the following points to make which have been repeated even after the disclosure of essential facts:

- Insufficient / piece meal disclosure
- Incorrect Cost of production data
- Lack of information of affiliates
- Illegal adjustment of US\$5 per MT claimed citing NALCO tender
- Issue of contract and physical export.

The Authority examined and verified at the plant site/ corporate office the relevant cost records, financial records and production records for determining the cost components, domestic sales price, export price, pricing policy, and transfer pricing to M/s Tricon. English translation of the Balance sheets were also provided to the domestic Industry apart from other non-confidential information as and when asked for.

## **1. IMPORTER'S VIEW**

### **a) M/S NALCO**

- i. It is incorrect to state that all countries in the world are dumping Caustic Soda into Indian market. The Chlor-Alkali report based on which the Petitioner has endeavoured to establish the normal value of the product in countries like China and Korea gives details of price summary on monthly basis as prevailing in international market. The copies of price summary report for the period of investigation i.e. from April, 2001 – March, 2002 is submitted herewith and marked as ANNEXURE “C”. A perusal of the report, shows that the prices of liquid Caustic Soda per DMT was in the range of US\$ \*\*\* in USA US\$ \*\*\* in western Europe, US\$ \*\*\* in eastern Europe in April, 2001 on FOB basis. At that time the export price in Far East was in the range of US\$ \*\*\* per DMT. During the year gradually the Caustic Soda price had started falling and by March, 2002 the Caustic Soda price in USA had come down to US\$ \*\*\* in Western Europe, US\$ \*\*\* in Eastern Europe, US\$ \*\*\* in Far East to US\$ \*\*\* per DMT on FOB basis. This being the nature of variation of price for this product in the whole world, if the domestic price in April, 2001 is considered in a particular country it will give a high value of Caustic Soda whereas the same domestic price in March, 2002 would be drastically different. Since the variation is in the range of 500% - 600% for this product in a period of one year, it will be erroneous to rely upon the figures given by the Petitioner at a particular period are only considered in determining the normal value. It may be appreciated that the normal value in USA is US\$ \*\*\* in April, 2001, the

same normal value has become US\$ \*\*\* in March, 2002. **Therefore, in order to find out whether there is any dumping or not, one has to go to the point when the contract for import was finalised and what was the price prevailing at that period in those countries. This is required as the prices changed not only on a month to month basis but also very drastically. Therefore any conclusion drawn on the basis of isolated figures given by Petitioner would be erroneous and not reflect the true Caustic Soda market.**

- ii. The allegations that NALCO's import order of 88,000 DMT placed at a price of US\$ \*\*\* for Membrane/Mercury grade and US\$ \*\*\* for Diaphragm grade is being imported at less than normal value and is therefore being dumped into Indian market is denied as being false and misleading. NALCO invited Global Press tenders for its annual requirement and the parties submitted the tender on September 28, 2001. The commercial points were clarified and thereafter prices were opened. The price bid opening was held on November 9, 2001. From the pricing summaries given in the Petition, it may be seen that the C&F, Visakhapatnam price offered by parties from Korea, China, Romania, Qatar, Iran in the tender was in the range from US\$ \*\*\*. It may be appreciated that since this tender was submitted in September, 2001, **the international price of Caustic Soda as prevailing in September is relevant as parties participating in the tender consider the prevailing international price and assume the price trend and quotes in the Tender.** Due to logistic reasons, the offers from Far East were more competitive given the freight element. From the Chloro-Alkali report of September, 2001, it may be seen that the prices in Far East was in the range of US\$ \*\*\* per DMT showing that for the exports from Far East the available international market price on C&F India ports will work out to US\$ \*\*\* per DMT. Further the trend of price was downward for Caustic Soda liquid during that period whereas the Chlorine prices had started picking up. Considering this, the price finalized in NALCO's tender is purely as per the prevailing international price and therefore cannot be considered as a price below the normal market price.

### 3. NORMAL VALUE & EXPORT PRICE

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

- i. the comparable price, in the ordinary course of trade, for the like article when meant for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6); or
- ii. when there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of

the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either :-

- a. comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country as determined in accordance with the rules made under sub-section (6); or
- b. the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6);

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

The normal value and ex-factory export price determination is illustrated below.

## **A. NORMAL VALUE**

### **1. M/S SHANGHAI CHLOR ALKALI CHEMICAL CO. LTD. PR CHINA**

The Authority notes that the exporter has provided details on sales in their home market of Caustic Soda during the Period of Investigation (POI). The ex-factory export price has been indicated as \*\*\*\* \$/Dry Metric Tonne (DMT). The exporter has provided the cost of production of the subject goods during the POI as \*\*\*\*\$/DMT. The weighted average domestic sales price has been shown to be making profits and thereby in the ordinary course of trade.

The Authority for the purpose of final determination considered the exporter as operating on the market economy principles. The normal value has been determined on the basis of the records kept by the exporter for sales of the like product in the domestic market at ex factory level in the ordinary course of trade as per Annexure 1 to the Anti Dumping Rules and Section 9A (1)( c) of the Customs Tariff Act, 1975 as amended in 1995. The Normal Value of the subject goods has therefore been referenced as \*\*\*\*\$/DMT for the POI. The Authority in this regard also notes that the data furnished by the exporter on the ex-factory domestic selling price and the ex-factory export price also indicates the incidence of dumping to an extent of \*\*\*\*\$/DMT.

## **B. EXPORT PRICE**

The Authority notes that the exporter has provided the ex-factory export price of the subject goods during the POI as \*\*\*\*\$/DMT and have also claimed adjustments of \*\*\*\*\$/DMT as discounts/commission and have provided the ex-factory price as \*\*\*\*\$/DMT. The Authority on the basis of the information provided by the exporter has correlated the exports made by the exporter with the response provided by M/s NALCO, the importer of the subject goods during the POI.

The Authority for the purpose of final determination considered the ex-factory export price as provided by the exporter and allowed the adjustments on discounts/commission.

The ex-factory export price comes to \*\*\*\$/DMT.

## **C. ASSESSMENT OF NON-COOPERATING PRODUCERS /EXPORTERS FROM PR CHINA**

### **1. NORMAL VALUE**

The Authority notes that none of the exporters other than M/s Shanghai Chlor Alkali Chemical Co. Ltd., PR China has responded to the questionnaire sent by the Authority for the purpose of investigation. In view of this non-cooperation, the Authority upholds the claim of the petitioners for treating such producers/exporters on the non-market principle. Keeping in view the treatment as considered in various EU/US cases cited above, the Authority has therefore constructed the normal value by adopting normated cost of production by benchmarking best practices of Domestic Industry vide Annexure I to the Anti Dumping Rules and Section 9A (1)(c) of the Customs Tariff Act, 1975, as amended in 1995..

The Authority has referenced the Normal Value for such producers/exporters as \*\*\*\*\$/DMT.

### **2. EXPORT PRICE**

The Authority notes that the export price has been provided by the petitioners on the basis of the data collected by them from DGCI&S and other secondary sources. The petitioners have also claimed adjustments on ocean freight, ocean insurance, commission, inland freight, port expenses and credit cost to an extent of \*\*\*\*\$/DMT, commission, inland freight, port expenses and credit cost to an extent of \*\*\*\*\$/DMT, \*\*\*\*\$/DMT, \*\*\*\*\$/DMT, \*\*\*\*\$/DMT and \*\*\*\*\$/DMT respectively. The Authority notes that as per the DGCI&S data imports of subject goods to an extent of 8210 MT have been shown from PR China. As per the response of one of the cooperating

importer viz. M/s NALCO, the imports from PR China are shown to an extent of 26505 MT. The DGCIS data is therefore not exhaustive and complete and therefore cannot be referenced. Since NALCO is one of the importer, there would be other imports of the subject goods made by other importers which may not have been reflected in the DGCIS data. Also no response has been received from the Customs regarding the details of the imports made during the POI. Since the best available information under such circumstances for the non-cooperating exporter could only be the information as available from the cooperating exporter, viz. M/s Shanghai Chlor Alkali Co. Ltd. whose export price also happens to be the lowest on the basis of the information as available with the Authority, the Authority considers it appropriate to reference this export price for the non-cooperating exporters from PR China. The adjustments allowed on the CIF on account of ocean freight, ocean insurance, commission, inland freight and port expenses to an extent of \*\*\*\$/DMT, \*\*\*\*\$/DMT, \*\*\*\$/DMT, \*\*\*\*\$/DMT and \*\*\*\$/DMT respectively.

The ex-factory export price is referenced as \*\*\*\$/DMT.

## **KOREA RP**

### **M/S HANWHA CHEMICAL CORPORATION, KOREA RP.**

#### **1. NORMAL VALUE**

The Authority notes the response filed by the exporter regarding their domestic selling prices of subject goods during the POI. The Authority notes that the transaction wise details on the domestic selling price for the POI has been provided by the exporter during the POI. The exporter has claimed adjustments on the domestic sales on account of discounts, inland freight, inland insurance and others to an extent of \*\*\*\$/DMT, \*\*\*\*\$/DMT, \*\*\*\$/DMT, \*\*\*\*\$/DMT and \*\*\*\$/DMT respectively. The export has also submitted that the domestic sales made during the period as near to the period of exports to India should be referenced for the purpose of appropriate comparison. The Authority notes that the sample evidence pertaining to the domestic selling price has been provided by the exporter. The exporter has claimed an adjustment on account of inland freight to an extent of \*\*\*\*\$/DMT which has been substantiated by the exporter by way of expenses incurred on the freight component.

The Authority for the purpose of final determination considered the adjustments as claimed on the inland freight. The Authority for the purpose of final determination also allows the other adjustments on inland insurance and commission. The Authority has referenced the domestic selling price for the period December, 2001-March, 2002 which is comparable to the period of exports made to India for the purpose of determination of the Normal Value. The normal value has been determined on the

basis of the records kept by the exporter for sales of the like product in the domestic market at ex factory level in the ordinary course of trade

Therefore for the purpose of final determination, the Authority has referenced the Normal Value as \*\*\*\*\$/DMT.

## 2. EXPORT PRICE

The Authority notes that the exporter has provided the ex-factory export price as \*\*\*\*\$/DMT. The exporter has provided export price to M/s Tricon Energy Limited, USA who in turn have exported the subject goods to India during the POI. Further the exports have been made through M/s Hanwha Corporation, the trading arm of M/s Hanwha Chemical Corporation. The exporter has claimed adjustments on account of discounts/commission to M/s Hanwha Corporation to an extent of \*\*\*\*\$/DMT. The Authority has also correlated the exports made by M/s Tricon Energy Limited, USA to M/s NALCO, the importer of subject goods in India. The Authority for the purpose of final determination has considered the adjustments as claimed by the exporter on discounts, adjustment on terms of sales as per NALCO's tender and adjustment on previous transaction sales to M/s Tricon to an extent of \*\*\*\*\$/DMT.

The ex-factory export price comes to \*\*\*\*\$/DMT.

## **ASSESSMENT OF NON-COOPERATING PRODUCERS / EXPORTERS FROM KOREA RP**

### 1. NORMAL VALUE

The Authority notes that none of the exporters other than M/s Hanwha Chemical Corporation, Korea RP has responded to the questionnaire sent by the Authority for the purpose of investigation. In view of this non-cooperation, the Authority has constructed the normal value on the basis of the facts available with the Authority.

The Authority has referenced the Normal Value for such producers/exporters as \*\*\*\*\$/DMT.

### 2. EXPORT PRICE

The Authority notes that the DGCI&S data indicates the imports from Korea RP to an extent of 56 MT. The Authority notes that one of the importers viz. M/s NALCO has provided response indicating imports from Korea RP to an extent of 6270.43 MT whereas the exporter has during this period exported quantity to an extent of 12569 MT. Thus the information as provided by DGCI&S does not capture the import data

fully and is being lowest and best available information. Therefore the CIF price of M/s Hanwha Chemical Corporation has been referenced for the non-cooperating exporters as well. The adjustments on the export price are considered on ocean freight, ocean insurance, commission, port and inland freight to an extent of \*\*\*\*\$/DMT, \*\*\*\*\$/DMT, \*\*\*\*\$/DMT, \*\*\*\*\$/DMT and \*\*\*\*\$/DMT respectively on the basis of the information made available by the petitioners and the cooperative exporter.

The ex-factory export price comes to \*\*\*\*\$/DMT.

### C. DUMPING –

The rules relating to comparison provides as follows:

“While arriving at margin of dumping, the Designated Authority shall make a fair comparison between the export price and the normal value. The comparison shall be made at the same level of trade, normally at ex-works level, and in respect of sales made at as nearly possible the same time. Due allowance shall be made in each case, on its merits, for differences which affect price comparability, including differences in conditions and terms of sale, taxation, levels of trade, quantities, physical characteristics, and any other differences which are demonstrated to affect price comparability.”

The authority has carried out weighted average normal value comparison with the weighted average ex-factory export price in Period of Investigation, for evaluation of the dumping margin for all the exporter/producers of the subject country.

The dumping margin for exporter/producers comes as under :

Sl. No.	Exporter/Producer	Ex-factory Export Price (\$/MT)	Dumping Margin as % of EP
1.	KOREA RP		
	1. M/s Hanwha Chemical Corporation (through M/s Tricon Energy Limited, USA ,and or other exporters)	****	Deminimus (-4.2%)
	2. Other producers and or exporters	***	37.3%
2.	PR CHINA		
	1. M/s Chlor Shanghai Chemical Co. Ltd.	****	41.7%
	2. Other producers and or exporters	****	84.05%

### INJURY



1. The various factors relating to injury to domestic industry have been discussed in the preliminary findings and the same are being considered for final determination. The arguments raised by the various interested parties are as under.
2. The arguments with respect to injury have been made by various parties are briefly summarised as under.

## **1. PETITIONER'S VIEW**

- vii. It is understood that the capacity of produces in subject countries is far in excess of the domestic demand in their respective markets. The huge volume of material offered to NALCO is a clear evidence in this direction. The producers are under tremendous pressure to sell the material. Vast Indian market is naturally quite lucrative to the exporters at the cost of Indian Producers. It is understood that capacity of Chinese Industry alone is more than 8 million MT, which is much more than the demand of Caustic Soda in China.
- viii. The exporters are understood to have booked orders for significant quantity through their Indian agent/s. In fact, orders for 87000 MT have already been placed by NALCO, which alone is more than average annual imports of Caustic Soda in India as also capacity of a number of individual producers in India.
- ix. Our market intelligence suggests that a lot of dumped material is under transit and shipment is expected very shortly. Should the present trend of order booking continue, the domestic industry would loose significant sales.
- x. The landed price of the imported material is significantly below the selling prices of the domestic industry. The volume of material for which order has booked is very significant in terms of demand of the subject product in India. Moreover, what should be appreciated is that should the producer in subject countries continue to sell the material at present prices in the Indian market, the domestic industry would not be able to hold even the present prices.
- xi. The landed price of imports is significantly below the full cost of production and fair selling price of the domestic industry. The domestic industry would be forced to face cash losses in case it has to sell at matching prices. The order placed by NALCO has had severe depressing effect on the prices in the market, more so in the post proposed investigation period.
- xii. The dumping margins are very significant. The price at which material is being exported does not permit recovery of even cost of production leave alone profits on huge investments.
- xiii. In the instant case :-
  1. There is a history of dumping. Earlier the domestic industry has been injured from dumping of Caustic Soda in India by the exporters/ producers from Saudi

Arabia, USA, Japan, Iran and France. The domestic industry requested the Designated Authority to impose Anti Dumping Duty. The Designated Authority, after a detailed investigation, recommended imposition of Anti Dumping Duty, which have since been imposed by the Central Government. After imposition of Anti Dumping Duty against these countries, producer/exporter from Qatar started dumping Caustic Soda in India. The domestic industry requested the Designated Authority to impose Anti Dumping Duty against Qatar also. The Designated Authority after preliminary investigations, recommended imposition of provisional duty. After initiation of the investigation against Qatar, producers and exporters from subject countries started dumping the material. Thus, there is a clear history of dumping of Caustic Soda in India by now.

2. The importers are well aware that the price at which the material is being exported from subject countries is a dumped price as the price is significantly below the reference price fixed by the Designated Authority in the earlier investigation. Evidently, the importers and consumers are well aware that the material is being imported at dumped prices;
  3. The injury is being caused by the producers/exporters from subject countries in a short period. Immediately after imposition of duty against Saudi Arabia, USA, Japan, Iran, France and Qatar the producer in subject countries started dumping. Our market intelligence suggests that the exporter have booked huge orders, which are under process of exportation.
  4. Sales to the tune of about 87,000 MT have been lost by the domestic industry in a single order;
- 
- vii. The Sales volumes of the participating companies as provided to the Authority indicate that sales of the participating companies, which has been increasing till 2000-01 declined in the April-December 2001. Further, the sales volumes are likely to remain low, considering the significant volume of sales lost by the domestic industry.
  - viii. The imports of Caustic Soda from the subject countries have increased dramatically. From a situation of off-and-on imports, the imports made by NALCO alone would be more than the combined volume of imports from all the countries and capacities of many a producers in the Country. The volume of imports is contained in Proforma IV-A. Further, dramatic increase in imports has resulted in significant increase in share of imports in (a) imports of Caustic Soda in India; and (b) demand of Caustic Soda in India.
  - ix. Production of the participating companies are given in Proforma IV A. It may be seen that the production of the participating companies, which has been

increasing till 2000-01 declined in the April-December 2001. Moreover, the petitioners submit that the change in the production level alone may not indicate injury to the domestic industry. More important parameter is the price at which offers for sale have been made by the exporters from the subject countries and the prices at which the domestic industry has been forced to sell or may be formed to sell in view of the dumped imports from the subject countries.

- x. Caustic Soda industry has provided very large-scale employment in the Country. Any sickness in the industry would have crippling effect on the employment.
- xi. The petitioners have lost significant sales due to the dumped imports. The NALCO order lost is a significant loss of sales for the domestic industry.
- xii. Profitability of the participating companies is given in Proforma A. It may be seen that the domestic industry is making huge losses.
- xiii. Imports of Caustic Soda from Other Countries (excluding countries already attracting anti-dumping duties or countries against which investigation is under progress), are de-minimus or are at a price not causing any injury to Indian industry.
- xiv. Demand of the Caustic Soda is increasing continuously. In fact, the demand has registered significant growth over the past five years. The domestic industry has sufficient capacity to meet the requirement of the Country. The changes in the demand have, therefore, not contributed to any injury to the domestic industry.
- xv. Material injury has been caused to domestic industry from dumped imports from the subject countries. As stated elsewhere in the petition also, the domestic industry is producing Caustic Soda for the several years. The technology adopted by the domestic industry is comparable to the technology adopted by the exporters. There is no significant difference in the exporter from the subject countries alongwith the dumped imports from Other Countries (which are already attracting duties are against which the investigations are in progress) is the reason for the present injury to the domestic industry.

The following issues were raised after disclosure of essential facts

- a. previous dumping of the product
- b. domestic industry standing
- c. factors affecting the domestic industry
- d. duties from retrospective effect
- e. duty on variable basis
- f. duty in terms of US \$

## **2. IMPORTER'S VIEW**

a) M/S NALCO

- i. A perusal of the installed capacity & production status given in the Petition at **Annexure – VIII** it may be seen that the 5 parties who are the only participants in NALCO's tenders, are producing almost around 90% of installed capacities. Further it can be seen that these parties have only offered quantities which can satisfy at an average 50% - 60% of NALCO's requirement and they represent hardly 15% of domestic production. Therefore when the parties who can be affected by NALCO's import, are producing above 90% of their installed capacities and not able to offer quantities required by NALCO, it is hard to believe that import by NALCO can sustain any material injuries to these industries. Further other parties in the petitions having no interest in NALCO's tender and unable to supply due to logistic problem can by no means be affected by NALCO's import. NALCO reserves its rights to file further submissions when such information is furnished by the industries as indicated.
- ii. The imports figure indicated in the Petition with respect to Caustic Soda imports in **Annexure – II** and claimed as being ostensibly based on reports of DGCI&S, are denied as being misleading and are quoted out of context. The imports have been considered taking Solid, Flexes and Liquids together whereas it is submitted that these three products are completely different from each other in all aspects. It is further submitted that the manufacturing process, production cost and selling price for these products are different. Furthermore, even the end uses of these products are different. Therefore, considering all these products under a single head for purpose of determining Anti Dumping Duty is not only misleading but also constitutes a misrepresentation. It is stated that NALCO has been only importing Liquid Caustic Soda. In light of the aforesaid it is submitted that each of these products should be considered separately. Therefore, their respective importation effect, prices and dumping margin should also be determined separately. It is further submitted that the solid and liquid Caustic Soda have different uses, pricing, consumer perceptions and tariff classifications and cannot be treated as "like articles" under R. 2(d) of the Anti Dumping Rules, 1995.
- iii. The international price as can be seen from the Chlor-Alkali Report, on which Petition has also placed reliance, shows wide variation in the prices of these products i.e. Solid and Liquid Caustic Soda. For example for the month of April, 2001 in USA the Caustic Soda Liquid price is shown in the range of US\$ 300 – 325 on FOB US Port basis, the Chlorine price under spot market was in the range of US\$ 0 – 40. However, if the pricing position is seen for the month of March, 2002 i.e. the end of investigation period, it shows that the Liquid Caustic Soda price in USA spot market was US\$ 50 – 75 per DMT on FOB US Port basis, whereas the Chlorine spot price was US\$ 80 – 100. Similarly in

Europe market, the Caustic Soda price in April, 2001 was in the range of US\$ 325 – 355 per DMT FOB at that time the Caustic Soda Flexes / Pearls price was US\$ 350 – 370 per MT FOB. Whereas in March, 2002, the Caustic Soda Liquid price in the Europe market was US\$ 90 – 110, whereas Flexes / Pearls price was US\$ 260 – 290 per MT.

- iv. The above figures show that there can be no comparison between the price of solid Caustic Soda with that of liquid Caustic Soda. Even in liquid Caustic Soda there will be variation in price between Mercury process and Diaphragm process and considering all the prices together to arrive at any decision is totally misleading. The above international price trends shows that when the realization from Caustic Soda is high, producers are willing to supply Chlorine at a lower price to meet the Caustic Soda demand. Likewise the situation reverses when there is demand for Chlorine. Chlorine price can go up even upto US\$ 300 per MT and at such time Caustic Soda can be supplied at a lower rate. This happens regularly in the international market since the producer is interested in total realization i.e. from Caustic Soda, Chlorine and Hydrochloric Acid and from any single product. In light of the aforesaid link between these commercially valuable products Anti Dumping Duty determination can only be done if the prices of all these products are considered to determine whether there is dumping and the resultant injury therefrom in a market. Without this examination, the whole process would lead to an incomplete understanding of the Caustic Soda market, which would resultant injury therefrom in a market. Without this examination, the whole process would lead to an incomplete understanding of the Caustic Soda market, which would result in misleading and incorrect conclusions.
- v. It is submitted that an indigenous producer who participated in the Tender, M/s DCW and who is also a part of the Petition, had offered an ex-work price of Rs. \*\*\* per DMT. The exchange rate (i.e Bill Selling Rate) prevailing on November 9, 2001 was US\$ 1 = Rs. 48.38. Therefore, the indigenous ex-work price offered was US\$ \*\*\*. Against this imported landed price considering Custom Duty rate of 35% works out to around US\$ \*\*\* per DMT. Therefore, the imported landed price was much higher than the offered ex-work price of Caustic Soda prevailing in domestic market. The domestic offer because of logistic problems and the higher element of freight for supply mentioned above was not competitive.
- vi. It is submitted that during the period of investigation that the domestic industry was selling Chlorine at ex-work price of approx. Rs. \*\*\* per MT in September, 2001. Therefore, the total realization to Indian manufacturers with Caustic Soda and Chlorine together works out to Rs. \*\*\* per MT, which is much higher than the cost of production of Caustic Soda, Chlorine together. From the above, it is adequately shown that domestic industries has filed the

present Petition solely motivated by the desire of higher profit margins due to which they are losing business to overseas parties. Therefore, it is not correct to state that international parties are supplying at much below the normal value as being alleged.

- vii. The Alkali Association represents the Association of Indian Manufacturers of Caustic Soda and Chlorine. Most of these manufacturers have multi-product plant and part of the Chlorine and in some cases 100% Chlorine is utilized by them for manufacture of value added products and they get larger margins by selling Chlorine. For them, Caustic Soda is only a by-product. The very purpose of Anti Dumping Petition by the Alkali manufacturers is to increase the indigenous price of Caustic Soda in the country. Through Alkali Manufacturers Association these manufacturers have conspired to keep Caustic Soda price at a level, which will be just lower than the imported price of Caustic Soda with Anti Dumping Duty. It may be mentioned here that out of the countries, who are capable of exporting Caustic Soda to India due to Petition by these Alkali Manufacturers Association and due to non-participation of the countries on whom Dumping was alleged, Anti Dumping Duty have been levied in respect of 5 countries i.e. USA, France, Saudi Arabia, Iran and Japan. Provisionally Anti Dumping Duty from Korea and China almost 90% of exporting countries of the world that can export Caustic Soda will get covered. It may be seen that in March, 2002 when the whole world can buy Caustic Soda at the prevailing market price of US\$ \*\*\* FOB and considering average freight of US\$ \*\*\* from most of the countries of the world to India the landed price would have been US\$ \*\*\* C&F. Against this with Custom Duty of 35% then applicable, the landed price works out to US\$ \*\*\*. Against this the Hon'ble Authority should consider the landed price as US\$ \*\*\* which is arrived at by taking into account the Anti Dumping Duty applicable now. The additional implication per MT over normal international price works out to approx. US\$ \*\*\* per MT with an exchange rate of Rs.48.38 this works out to Rs. \*\*\* per MT. For NALCO's requirement of 100,000 DMT the additional implication will be Rs. \*\*\* . **When any aluminum Manufacturers in the world can buy at a price of US\$ \*\*\* per DMT with the imposition of Anti Dumping Duty in India, NALCO will be forced to buy at US\$ \*\*\*. This will only make Indian Aluminum Industry non-competitive and will give rise to increase in indigenous price of Aluminum, which will result in import of Aluminum. The Indian Alkali Industries who are already producing almost to the full capacities and their productions are increasing their profit margin are increasing, but inspite of above, they want further profit by imposition of Anti Dumping Duty which is against the object and spirit of India's commitments to the WTO. There is no injury to indigenous industries and on the contrary this Anti**

Dumping Duty is solely motivated by the desire of the indigenous manufacturers to join hands and increase the price of Caustic Soda much above their cost of production and gain supra competitive profits. The Designated Authority should look into this game plan of Alkali Association and should reject their Petition in view of misrepresentation, suppression and submission of distorted facts.

### **3. EXPORTER'S VIEWS**

#### **a) M/S TRICON ENERGY LIMITED, USA**

- i. It is denied and disputed that the Domestic Industry has suffered the injury
- ii. First as stated above, Chlorine prices were at record high and the domestic producers must have reaped benefits of that.
- iii. Second, notwithstanding the representations on capacity, it is submitted that the domestic units, have a much lower capacity of caustic soda that has been represented. The size of the unit compared with the outdated technology and the high cost of power, clearly indicate that the injury if any, is not caused by any dumping. Furthermore, one of the domestic producers who also manufactured epichlorohydrin M/s Tamil Nadu Petro Products Limited admitted that the high cost of energy was the reason for their 'serious injury' in a safeguard proceeding. As part of their restructuring plan, they had committed to introduce a captive power plant, which would reduce their cost of production. Thus it is admitted that Indian industry was being injured due to factors other than dumping.
- iv. As stated above, M/s NALCO floated global tender with a view towards obtaining the most competitive price for its requirement. It may be noted that the supplies were made to M/s NALCO at non dumped prices based on then prevailing market rate. On the other hand, the local suppliers were at an inherent disadvantage in as much as the local transportation costs were prohibitively high based on the requirement of M/s NALCO that the shipment may be in liquid form. Furthermore, the four Indian bidders offered almost identical prices, irrespective of their method of production or capacity. It is respectfully submitted that prima facie such pricing is not possible,

Without any prejudice to the aforesaid, it is respectfully submitted that the Domestic Industry could not have been injured by the minimal supplies made by M/s Hanwha Chemical Corporation and M/s Tricon Energy Limited pursuant to the NALCO tender.

#### **b) M/S HANWHA CHEMICAL CORPORATION, KOREA RP**

- i. In the written petition of the Alkali Maker's Association, we find that the Caustic Soda industry is a very old industry and that there are several makers claiming that their joint capacity to be more than the demand in India. On the other side, we find that India has also enough capacity for PVC and Epichlorohydrin – however if we make further observations, we find that the PVC plants in India are importing EDC and/or VCM as their basic feedstock (and not able to produce EDC and/or VCM locally by using the local Chlorine). The Designated Authority may ask this to the petitioners and we are sure the findings would be that the local Caustic units were planned considering only the local rather neighbourhood demand for Caustic Soda Lye only – it is not out of place to mention that we have come across situations whereby the local Caustic producers were said to be disposing chlorine at virtually nil cost – this in a way clearly shows their inefficient handling of production costs.
- ii. Irrespective of any protection they seek, this situation would never going to change – rather, the user industry would keep on suffering while the Caustic units change – rather, the user industry would keep on suffering while the Caustic nits making merry just because of the protections.
- iii. We are not engaged in dumping of Caustic Soda Lye in India market by merely offering international price. No intention to dumping Caustic Soda Lye in India and causing injury to the Domestic Industry in India.
- iv. First of all, we have not sold any cargo to India market directly. Basically, we received one inquiry from Tricon Energy, USA and we have given them offers considering the prevailing international market for supplies to NALCO in India. And, Tricon have further participated in the NALCO tender.
- v. The export volume during the investigation period from Korea RP was very little i.e. only 12569.32 DMT and the percentage of total inputs as compared to total consumption in India which is 1600000 DMT is a meager 0.78% only. This cannot cause any injury to the Domestic Industry.
- vi. The Caustic Soda Lye has become a commodity and for this the price reference is drawn from the international price indexes – the prices are quoted like metals in London Metal Exchange (LEM for various metals) and PLATT/ICIS for Polymers, etc. Rather if the Designated Authority compare the prices prevailing in the international market at the time of the shipments that we have made to NALCO, the same is fairly higher.
- vii. There is a global size Alumina producer in India-NALCO – they consume big quantity of Caustic Soda Lye and to get a better pricing they invite global tenders where the local makers and as well as the global producers participate. The Designated Authority has seen the cost comparison presented by the petitioner related to the offers made by the overseas suppliers – however, if we examine the participation by the local makers in that tend, we find that out of the 42 producers only 4 companies participated, the total qty. offered by them



(83,000 DMT +/-5%) the Designated Authority may look into this situation prior to coming to any conclusion.

- viii. We from Hanwha have offered only Diaphragm Process to NALCO (though we have Membrane Process also). We further reiterate that based on the petition of the petitioner, there seems to be only one maker of Diaphragm Process in India and their installed capacity is approx. 7250 MT. Which is only 1/4th of the NALCO's total requirement of particular process. Considering this fact it is not at all a dumping rather we have offered a grade, which is not offered by the local maker.
- ix. Petitioner has mentioned that Caustic Soda produced by the three processes are same – the Designated Authority may note that there are some critical difference in the specifications. The Chloride content in the Diaphragm Grade Caustic Soda is higher than that of Mercury and Membrane Grade.
- x. Though in the petition the petitioners have mentioned that there are three production processes to produce Caustic Soda Lye, prima facie it appears that the local companies in India use either Mercury cell or membrane cell based Caustic Soda Lye.
- xi. On further analysis of the capacities of the participating local makers in the NALCO's said tender, we find that only Tamilnadu Petroproducts Ltd. (TPL- Capacity 49500 MT) and Andhra Sugars (Capacity 30000 MT) have membrane cell technology and their operation ratio during year 2000-2001 has been almost touching 100%.
- xii. The Designated Authority may please look into the fact that the local companies, operating at near about 100% of their capacity or above, without selling their products to NALCO – offer to NALCO in tender anywhere 30% to 60% of their total capacity – the obvious intention seems to be to exploit the regional market which they are catering to.
- xiii. Though the petitioner claims that in India, Caustic Soda is produced by using all the three processes (Mercury, Diaphragm and Membrane), however, we find in their submissions that only one maker (Sirpur Paper) has a production process based on Diaphragm Cell, that too a very small capacity of 7250 MT/year.
- xiv. One of the plea that the local makers take about their higher cost of production is that the cost of power is very high in India and as since power plays a very important and significant role in Caustic production so they should be given protection.
- xv. Here we draw the reference of one submission made by one of the Caustic producers in India – Tamilnadu Petroproducts Ltd. (TPL) – during one hearing in the Safe-Guard duty on Epichlorohydrin imports into India. – TPL has referred that they are producing Caustic Soda and as well as Epichlorohydrin and further that by way of installation of a captive power

plant they propose to reduce the cost of the Chlorine to one third the existing cost – at this juncture we would like to draw the attention of the Designated Authority – as TPL (one of the Caustic Soda producers has clearly established the link in the production of Caustic Chlorine and ECH) and further, they say that the captive power plants can drastically reduce the cost of productions. Therefore, our submission is that while determining the costing of Caustic Soda, these factors may kindly be looked into more closely.

- xvi. In their petition – the petitioners have described the characteristics of Caustic Soda Lye and the solid/flakes – the Designated Authority can very well understand from a first glance that for supplies of Caustic Soda Lye some special provisions have to be made (because crystallization) begins at 12-15 Deg Celsius) and further the boiling point is 142-148 Deg. Celsius).
- xvii. Nowhere we find that among the petitioner companies location from the user (NALCO) are far off – which means that they have to make special arrangements for transportation of Lye. This also means that many of inland producers have primarily no right to seek Anti Dumping duty on a product which they cannot deliver practically to their buyers owing to geographical locations. Further for the other producers, one has to really look into the facilities for loading into a specialised vessels and subsequent deliveries to the buyer (NALCO). We feel that this is one of the main reasons for only 4 local companies participating in the NALCO tender.
- xviii. If we examine the India's exports of Caustic Soda-this becomes more evident that India is not able to export Caustic Soda Lye whereas the exports of Solid and Flake types are there.
- xix. Now the designated Authority may look into the submissions made by the petitioner-represent the imports of Caustic Soda flakes/solid)
- xx. The petitioner in their non-confidential submissions has taken total imports during the POI 163,012 mt, after analyzing the data of imports from April-December, 2001. However the supporting annexure of their submissions covers the data for April, 2001 – November, 2001 only. In fact it seems that petitioner is trying to mislead the Authority by adding total quantity awarded in the NALCO tender as imports during the POI. The fact is that the quantity awarded is to be supplied as staggered shipments till December, 2002. The actual imports during the POI is much less as compared to the previous year. Further if we analyze the data on the basis of the imports (April 01 – January 02) the total imports also shows considerable decline in Caustic Soda Lye imports.
- xxi. Now think of the problems that could be faced by the buyers like NALCO who need Caustic Soda Lye- if they are supplied with Caustic Soda Flakes/Solid and if they have to arrange to convert that to Lye again-it leaves a big question mark?

- xxii. One of the basic reasons for imposition of anti dumping duty on the imports of Caustic Soda from Korea (Hanwha Chemical Corporation) together with others – the petitioner states in their petition that the capacity in these countries are far higher than their basic domestic requirement. It is observed from the Korea's import statistics for the Caustic Soda – it is evident from our submissions, that Korea imports large volume of Caustic Soda as well as exports. The basic reason for his trading is to effectively manage the Caustic situation in Korea.
- xxiii. Here it not out of place to mention that we participated in the NALCO tender during the 2nd half of year 2001 – by that time prices had started to come down in the international market. Further, if the Designated Authority may look at the prices in the international market prevailing during April, 2002 it touched USD 30 per DMT FOB US GULF - however from May, 02 the prices have again started to move upwards sharply.
- xxiv. Our capacity of production, cost of production, local sales volume and the costing etc. are being submitted in the specified formats as prescribed by the Designated Authority and in view of the sensitivity of the information, we are submitted those details as absolutely confidential. The ex-factory export price to India is much higher than the ex-factory domestic selling price in Korea. The Designated Authority or the nominated officials can verify these data for this purpose in our head office in Korea at any mutually suitable date and time.

#### **4. EXAMINATION BY AUTHORITY**

Under Rule 11 supra, Annexure –II, when a finding of injury is arrived at, such finding shall involve determination of the injury to the domestic industry, “....taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles...” In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.

For the examination of the impact of the dumped imports on the domestic industry in India, the Authority proposes to consider such indices having a bearing on the state of the industry as production, capacity utilisation, sales quantum, stock, profitability, net sales realisation, the magnitude and margin of dumping, etc. in accordance with Annexure II(iv) of the rules supra.

As regards the threat of injury, the Authority notes that the Anti-Dumping Rules states as follows :

“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 DA shall consider, inter-alia, such factors and:

- a. a significant rate of increase of dumped imports into India indicating the likelihood of substantially increased importation;
- b. 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;
- c. 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 import; and,
- d. inventories of the article being investigated.

The Authority notes that various interested parties have mentioned that it is in totality that the price of chlorine and hydrochloric acid along with caustic should be considered. It has also been mentioned that the domestic producers of caustic soda in India are using obsolete technology and have high cost of production on account of electricity cost. The issue of high inland freight for supply to NALCO has also been indicated.

It has also been further mentioned that there is an excess capacity in India which is leading to injury to the domestic producers. Submissions have also been made that world over chlorine is the main product whereas in India caustic soda is the main product. The Authority after noting the above submissions holds that the non-injurious price has been evaluated for the various domestic producers by appropriately considering the sales realization from the related products. Also in order to eliminate inefficiencies, the Authority has not mated and benchmarked the best practices on utilization of raw materials, utilities etc. Cost data of all the participating domestic industry was analyzed and the cost data was verified with the cost and financial records for the purpose.

As regards the injury which could happen on account of higher cost of production in India, the Authority notes that under the Indian Anti Dumping Rules it is the lesser duty rule which is applied.

However despite the above, the Authority appropriately considers the cost of production of the domestic producers and not mates the same for determination of Non-Injurious Price (NIP). As regards the injury on account of inland freight is

concerned, the Authority holds that the comparison of landed value of dumped goods with NIP is made at the ex-factory level, which does not include the inland freight. Therefore the importer viz. M/s NALCO could import the material at non-dumped price and thereby may not place order on to the domestic producers in India in case the freight was considered for them.

As regards the submissions on usage of obsolete technology is concerned, the Authority notes that the various domestic producers in India are using all the three technology and that the inefficiencies in the cost of production are appropriately considered while determination of the Non-Injurious Price.

## INJURY:

The Authority has considered arguments of various interested parties for examination of injury to the domestic industry.

Particulars	Unit	1999-00	2000-01	2001-02
Imports – China	MT	19	17	26505
Imports – Korea	MT	21	33	12569
Imports – Subject Countries	MT	40	50	39074
Imports – Other than subject countries	MT	86703	73572	54217
Imports – All Sources	MT	86743	73622	93291
Market share in Imports				
China	%	0.022	0.023	28.411
Korea	%	0.024	0.045	13.473
Subject Countries	%	0.046	0.068	41.884
Other Countries	%	99.95	99.93	58.12
All Source – Imports	%	100.00	100.00	100.00
Economic Parameters				
Capacity	MT	830000	830000	842500
Production	MT	712146	730625	711556
Capacity Utilization	%	85.80	88.03	84.46
Sales	MT	588455	583221	544046
Net Sales realization	Indexed	100	99.11	92.45
Cost of Production	Indexed	100	101.29	101.46
Profit/Loss	Indexed	-100	-61.88	-38.69
Cash profits				
Stocks	Indexed	100	71.44	190.01
Return on Capital Employed	Indexed	100	59.00	34.02
Demand	Indexed	100	100.74	102.27
Market share in Demand				
China	%	0.0013	0.0011	1.7546
Korea	%	0.0014	0.0022	0.8320

Subject Countries	%	0.0027	0.0034	2.5866
Other Countries	%	5.8700	4.9442	3.5891
All Source – Imports	%	5.8727	4.9475	6.1757
Domestic industry	%	39.84	39.19	36.01
Other Indian Producers	%	54.29	55.86	57.81
Indian Industry	%	94.13	95.05	93.82
Growth	%	-	-0.89	-7.55
Employees	Indexed	100	98.77	98.00
Productivity per Employee	Indexed	100	103.87	101.95
Salary/Wage per Employee	Indexed	100	117.08	149.59
Cash Losses	Rs. Lacs	100	18.40	5.87

### **(i) Cumulative assessment**

Annexure II (iii) to the Indian Anti Dumping Rules provides that in case where 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. The margins of dumping from each of the subject country are more than the limits prescribed. Quantum of imports from various countries is more than de-minimus. Cumulative assessment of the effects of imports is appropriate since the exports from the subject countries directly compete with the goods offered by the domestic industry in the Indian market. The Authority therefore has assessed injury to the domestic industry cumulatively from all the subject countries.

### **(ii) Production and Utilization of Capacity**

The Domestic industry saw reduction in both production and capacity utilization to the extent of two to three percent.

### **(iii) Sales**

Sales volume reduced by about eight percent although net sales realization went up by around thirty percent along with a rise in cost of production of about one and a half percent.

### **(iv) Productivity**

Productivity of the domestic industry is getting adversely affected. The petitioner has not been able to produce optimally under the circumstances of loosing bulk orders. This is resulting in lower productivity.

### **(v) Price undercutting**

The landed price of imports from the subject countries is considerably lower than the selling price of the domestic industry, resulting in price undercutting. As against the fair selling price of Rs. \*\*\*\*/Mt the landed price of imports in respect of China was Rs \*\*\*\*/Mt, Price undercutting was to the extent of 5.9%.

**(vi) Price underselling**

The domestic industry has been forced to sell the product at prices much below the cost of production in view of lower prices of the imported product. Since the customers have demanded matching prices from the domestic industry, price underselling better reflects the injury being faced by the domestic industry as compared to price undercutting. Price underselling have been to the tune of 13.03%.

**(vii) Margin of dumping**

The dumping margins are not only more than de-minimus but also very significant ranging from 37.3% to 84.05%. Significant dumping is very adversely affecting the domestic industry.

**(viii) Cash flow**

As submitted by the petitioners, sales of the product under consideration below cost of production is having adverse impact on the cash flow of the company. Cash flow is remaining negative due to higher cash outflow as compared to inflow.

**(ix) Inventories**

The authority notes that inventories would not be very relevant to reflect the injury to the domestic industry in case of lye as it requires large storage space in controlled environment, however, it can be seen that the stocks which were declining till preceding year increased substantially in period of investigation..

**(x) Growth**

There has been negative growth to the tune of (-) 7.55% of the industry. In light of the increasing demand, increasing imports and increase in the market share of the imported goods negative growth of the domestic industry assumes a serious dimension.

**(xi) Ability to raise fresh investment**

Return on capital employed is negative and remained negative in the last three years. With companies making cash losses no new investment appeared to be propitious.

**(xii) Cost of production, selling price and profitability**

As mentioned earlier, the price at which the domestic industry has been forced to sell the product did not permit recovery of reasonable cost of production. The domestic industry is forced to face cash losses.

**(xiii) Employment**

Although wages have increased in adherence to the prevailing labour law number of employees have slightly reduced as a result of the suppressed activity of the domestic industry.

**2. Causal Link :**

In determining whether injury to the domestic industry was caused by the dumped imports, the Authority took into account the following facts:-

- i. Substantial imports of subject goods from subject countries/ at dumped prices forced the domestic industry to reduce its selling prices to un-remunerative level, which has resulted in a situation of price undercutting in the Indian market.
- ii. The imports from subject countries suppressed the prices of the product in the Indian market to such an extent that the domestic industry was prevented from recovering its full cost of production and earn a reasonable profit from the sale of subject goods in India.
- iii. The Authority notes that imports of subject goods from the subject countries during the POI increased sharply. Thus, volume injury is clearly established. In examining the price effect, the Authority notes that the low priced imports from the subject countries has forced the petitioner to sell at suppressed prices and incur losses on the sale of the subject goods during the period of investigation. Dumped imports of subject goods have prevented the domestic industry from realizing a reasonable remunerative selling price in the domestic market. The domestic industry in its attempt to match the dumped import prices was forced to sell below its non-injurious price, which resultantly, the domestic industry was unable to recover.
- iv. Imports from other countries have been much less during the POI as against previous years and prices from these countries are higher. The Authority could not find any evidence of contraction of demand, change in pattern of consumption, trade restrictive practices of and competition between the foreign



and domestic producers. It is also noted that developments in technology have not been a cause for injury to the domestic industry.

- v. In establishing that the material injury to the Domestic Industry has been caused by the imports from the subject countries, the Authority holds that the increase in market share of imports from the subject countries resulted in decline in the market share of the petitioner i.e. Domestic Industry and prevented the domestic industry from raising its market share, considering that the petitioner has set up new facilities for production of the subject goods. These imports have significantly depressed the prices of the domestic product forcing the Domestic Industry to sell at un-remunerative prices. The material injury to the Domestic Industry has, therefore, been caused by the dumped imports from the subject countries.

### **3. Landed Value**

The landed value has been determined for the subject goods after adding to the weighted average c.i.f. price the applicable level of customs duties (except duties levied under Section 3, 3 (A), 8B, 9, 9(A) and 1% towards landing charges.

### **4. Non-Injurious price**

While determining the non-injurious price for the like articles for the domestic industry, the Authority has used the actual verified cost of production of the subject goods to determine optimum cost of production for the domestic industry taking into account the normated best consumption norms of all the participating domestic industry and the actual price of the raw materials which are consumed for the production of the subject goods during the period of investigation. For calculation of injury margin, the authority compared the weighted average ex-factory non-injurious price of the subject goods determined for the period of investigations with the landed value of imported goods.

### **5. Duty upto dumping margin:**

The Authority recommends the amount of anti-dumping duty equal to the margin of dumping or less, which if levied, would remove the injury to the domestic industry.

## **INTEREST OF INDIAN INDUSTRY AND OTHER ISSUES**

- i. The Authority with regards to NALCO's submission holds that there are various schemes under the EXIM policy which permit imports of goods for export production without levy of anti dumping duty.

- ii. The Authority holds that the purpose of anti-dumping duties, in general, is to eliminate dumping which is causing injury to the domestic industry and to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country.
- iii. The Authority also recognizes that the imposition of anti-dumping duties might affect the price levels of the products manufactured using 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.
- iv. The Authority notes that the imposition of anti-dumping measures would not restrict imports from China PR & Korea RP in any way, and, therefore would not affect the availability of the product to the consumers.

## CONCLUSION

It is seen, after considering the foregoing that:

- a. The subject goods originating in or exported from the subject countries have been exported to India below Normal Value, resulting in dumping.
- b. The Indian domestic industry has suffered injury. The domestic industry has suffered material injury in terms of subject goods produced by it. Further, establishment of the domestic industry is being materially retarded by the dumped imports, in as much as the domestic industry is trying to establish itself in the Indian market with new subject product.
- c. Injury has been caused by imports of subject goods from the subject countries.
- d. It is considered necessary to impose definitive anti-dumping duty on imports of subject goods originating in or exported from the subject countries.
- e. It is considered to recommend the amount of anti-dumping duty equal to the margin of dumping or lower so as to remove the injury to the domestic industry accrued on account of dumping. Accordingly, it is proposed that definitive anti-dumping duties equal to the difference between the amount of Column 9 of the Table below and the landed value of subject goods in \$/MT be imposed by the Central Government, on all imports of subject goods originating in or exported from subject countries under Chapter 281511 and 281512 of the Customs Tariff Act.

Sl. No	Sub-headin g	Descriptio n of goods	Specificatio n	Countr y of origin	Countr y of export	Producer	Exporte r	Amt (USD / MT)	Unit measuremen t	Currenc y
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)

1.	281511 281512	Caustic Soda	Caustic Soda lye and Caustic soda solid/flakes	Korea RP	All	M/s Hanwha Chemical Corporatio n	M/s Tricon Energy limited USA	Not applic- able	Dry Metric Tonne	USD
2.	281511 281512	Caustic Soda	Caustic Soda lye and Caustic soda solid/flakes	Korea RP	All	M/s Hanwha Chemical Corporatio n	Any	Not applic- able	Dry Metric Tonne	USD
3.	281511 281512	Caustic Soda	Caustic Soda lye and Caustic soda solid/flakes	Korea RP	All	Any	Any	295.2 7	Dry Metric Tonne	USD
4.	281511 281512	Caustic Soda	Caustic Soda lye and Caustic soda solid/flakes	Any country except China PR	Korea RP	Any	Any	295.2 7	Dry Metric Tonne	USD
5.	281511 281512	Caustic Soda	Caustic Soda lye and Caustic soda solid/flakes	China PR	All	Shanghai Chlor Alkali Chemical Company Limited	Any	295.2 7	Dry Metric Tonne	USD
6.	281511 281512	Caustic Soda	Caustic Soda lye and Caustic soda solid/flakes	China PR	All	Any	Any	295.2 7	Dry Metric Tonne	USD
7.	281511 281512	Caustic Soda	Caustic Soda lye and Caustic soda solid/flakes	Any country except Korea RP	China PR	Any	Any	295.2 7	Dry Metric Tonne	USD

f. Subject to above , the Authority confirms the preliminary findings dated 21st September 2002.

g. g) An appeal against this order shall lie to the Customs, Excise and Gold(Control) Appellate Tribunal in accordance with the Act supra.

**L.V. Saptharishi,**  
Designated Authority