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F. No.7/16/2017-DGAD
Government of India
Ministry of Commerce & Industry
Department of Commerce
(Directorate General of Trade Remedies)
4th Floor, Jeevan Tara Building, 5, Parliament Street, New Delhi 110001

NOTIFICATION

Date 1st August, 2018

(Final Findings)

Subject: Final Finding Notification in the 3rd Sunset Review of Anti-dumping investigation concerning imports of ‘Caustic Soda’ originating in or exported from Saudi Arabia and USA

File No. 7/16/2017-DGAD: Having regard to the Customs Tariff Act, 1975 as amended in 1995 and thereafter (hereinafter also referred as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended from time to time (hereinafter also referred as the Rules), the Designated Authority (hereinafter also referred to as the Authority) had initiated 3rd Sunset Review of Anti-dumping investigation concerning imports of ‘Caustic Soda’ (hereinafter also referred to as the subject goods), originating in or exported from Saudi Arabia and USA (hereinafter referred to as the subject countries).

A. BACKGROUND

2. Whereas, the original investigation concerning imports of the subject goods originating in or exported from Saudi Arabia, Iran, Japan, United States of America and France was initiated by the Authority vide Notification 56/1/99-DGAD, dated 26.5.2000. The Authority, vide preliminary findings dated 16.11.2000 recommended imposition of provisional duty, which was imposed by Notification No. 153/2000 – Customs dated 26.12.2000. The final finding was notified by the Authority vide Notification No. 56/1/99-DGAD dated 14.5.2001 recommending imposition of definitive anti-dumping duties on the imports of the subject goods, originating in or exported from Saudi Arabia, Iran, Japan, United States of America (USA) and France. Accordingly, Customs Notification No. 69/2011-Customs(ADD) dated 26.6.2001 was issued imposing the duties.
3. Whereas upon expiry of applicable duties at five years, the Authority initiated a sunset review and vide Final Finding Notification No. 15/29/2004-DGAD dated 1.8.2006 recommended continuation of duty. Accordingly, the same was notified vide Customs

Notification No. 98/2006 dated 13.9.2006. Further, on 8.6.2010, a mid-term review was initiated in respect of imports from Saudi Arabia, Korea RP and USA, pursuant to which the Authority modified the quantum of duties levied vide Final Findings dated 7th July, 2011.

4. Upon completion of five years, 2nd Sunset Review investigation was initiated by the Designated Authority against the imports of Caustic Soda from Saudi Arabia, USA, Japan, Iran and France vide notification 15/28/2010 dated 2.9.2011. The Designated Authority vide Final Finding notification 15/28/2010-DGAD dated 31.8.2012 recommended continuation of anti-dumping duties against imports from Saudi Arabia, Iran and USA. The ADD against imports from Japan was recommended as Nil and ADD against imports from France was terminated. Accordingly, a customs Notification No. 49/2012 – Customs (ADD), dated 26.11.2012 was issued valid for a period of 5 years.
5. Another mid-term review was initiated by the Authority vide notification 15/19/2015 dated 22.1.2016, against the imports from USA, Iran and Saudi Arabia. The Designated Authority conducted detailed investigations in respect of three subject countries, i.e. Saudi Arabia, Iran and USA; and recommendations were issued vide notification No. 15/19/2015 dated 20.6.2017. The Authority recommended modifications in duty which were notified vide customs notification no. 39/2017-Customs (ADD) dated 23.8.2017.
6. Whereas M/s Alkali Manufacturers' Association of India (AMAI) on behalf of M/s DCW Limited, M.s Grasim Industries Limited (6 units) and M/s SIEL Chemical Complex (hereinafter also referred to as the petitioner) filed an application requesting initiation of sunset review of the anti-dumping duties earlier imposed and seeking continuation of duties against imports from Saudi Arabia, Japan, Iran and USA. The request was based on the grounds that the expiry of the measure was likely to result in dumping from that country and consequent injury to the domestic industry.
7. In view of the duly substantiated application with prima facie evidence of likelihood of dumping and injury filed on behalf of the domestic industry and in accordance with Section 9A(5) of the Act, read with Rule 23 of the Anti-dumping Rules, the Authority initiated a sunset review investigation vide Notification No. 7/16/2017-DGAD dated 20.11.2017 to review the need for continued imposition of the anti-dumping duties in respect of the subject goods, originating in or exported from the Saudi Arabia and USA (hereinafter referred to as the subject countries), and to examine whether the expiry of the said duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry. However, no investigation was initiated with respect to Iran and Japan in view of lack of sufficient evidence of dumping and injury against them. Further, the duties in force were extended by the Central Government upto 25.11.2018 vide Notification No. 55/2017 – Customs (ADD) dated 24.11.2017.

8. The scope of the present review covers all aspects of the previous investigations concerning imports of the subject goods, originating in or exported from the subject countries.

B. PROCEDURE

9. The procedure described herein below has been followed by the Authority with regard to the subject investigation;
 - i. The Designated Authority, under the Anti-Dumping Rules, received a written application from the petitioner on behalf of the domestic industry, requesting for continuation of anti-dumping duties against the imports of subject goods from Saudi Arabia, Iran, Japan and United States of America.
 - ii. On receipt of a duly substantiated application, the Authority issued Initiation Notification No. 7/16/2017-DGAD dated 20.11.2017, published in the Gazette of India, Extraordinary, initiating 3rd sunset review of anti-dumping duty imposed on imports of the subject goods originating in or imported from Saudi Arabia and the United States of America. No investigation was initiated against Japan and Iran, in view of lack of sufficient evidence of dumping and injury against them.
 - iii. The Embassies of the subject countries in New Delhi were informed about the initiation of the sunset review investigations in accordance with Rule 6(2) along with the copy of the initiation notification and NCV petition .
 - iv. The Authority forwarded copies of the Notification to the following known producers / exporters in the subject countries (whose names and addresses were made available to the Authority by the petitioner) and provided opportunity to make their views known in writing within forty days from the date of the letter in accordance with the Rule 6(2) and Rule 6(4) of the Anti-Dumping Rules.
 - a. M/s Shell Trading (M.E.) Pvt. Ltd. (STME), Saudi Arabia
 - b. M/s Saudi Basic Industries Corporation (SABIC), Saudi Arabia
 - c. M/s Saudi Petrochemical Company, Saudi Arabia
 - d. M/s Sahara Petrochemicals Company, Saudi Arabia
 - e. M/s Saudi Arabia's Sahara and Ma'aden Petrochemicals Company (SAMAPCO), Saudi Arabia
 - f. M/s MIDPOINT Chemical Company, USA
 - g. M/s US Akzo Chemicals Limited, USA
 - h. M/s Dow Chemcail Company, USA
 - i. M/s Tricon Energy, USA
 - j. M/s FMC Industrial Chemicals Group, USA
 - v. Further on the request of certain interested parties, the Authority extended the time period for submission of Questionnaire responses by the interested parties up to 5.02.2018.
 - vi. The following producer and exporter from Saudi Arabia have only filed a response to the exporters' questionnaire:

- a. M/s Saudi Petrochemical Company (SADAF), (Producer) along with its exporter M/s Saudi Basic Industries Corporation (SABIC), Saudi Arabia
- vii. The Authority forwarded copy of Notification to the following known importers / consumers of subject goods in India (whose names and addresses were made available to the authority by the applicants) and advised them to make their views known in writing within forty days from the date of issue of the letter, in accordance with the Rule 6(4):
- a. M/s Abhay Chemicals Limited
 - b. M/s Albright Wilson Chemicals Limited
 - c. M/s Arvind Mills Limited
 - d. M/s Birla Cellulose Limited
 - e. M/s Central Pulp Mills Limited
 - f. M/s Deepak Nitrite Limited
 - g. M/s Godrej Sopas Limited
 - h. M/s Gujarat Narmada Fertilizer & Chemicals Limited
 - i. M/s Gujarat state Fertilizer & Chemicals Limited
 - j. M/s Indian Farmer Fertilizer Coop. Limited
 - k. M/s Indian Oil Corporation Limited
 - l. M/s Jaysynth Dyechem Limited
 - m. M/s Link Pharma Limited
 - n. M/s Meghmani Organics Limited
 - o. M/s Narmada Chemature Petrochemicals Limited
 - p. M/s Nirma Limited
 - q. M/s Pab Chemicals (P) Limited
 - r. M/s Rama News Print & Papers Limited
 - s. M/s Rubamin Limited
 - t. M/s Sabero Organics Limited
 - u. M/s Torrent Gujarat Biotech Limited
 - v. M/s Transpek Silox Industries Limited
 - w. M/s National Aluminium Company Limited
 - x. M/s Cyanides & Chemicals Company
 - y. M/s Hitsu Industries Limited
 - z. M/s Adani Exports Limited
 - aa. M/s Adani Wilmar Limited
 - bb. M/s Libra Foams
 - cc. M/s Shri Ramachandran Straw Products Limited
 - dd. M/s Bilag Industries Private Limited
 - ee. M/s Daurala Organics Limited
 - ff. M/s C J Shah & Co.
 - gg. M/s Harish Kr. & Company
 - hh. M/s Hindustan Link & Resins Limited
 - ii. M/s Hindustan Level Limited
 - jj. M/s Vedanta Limited

- viii. Out of all the importers, only M/s Vedanta Limited filed a response. They have submitted response in importers' questionnaire format and also participated in the oral hearing and subsequently filed written submissions.
- ix. The Government of Saudi Arabia also participated in the oral hearing, however, no written submissions were filed by them.
- x. The period of investigation (POI) for the purpose of the present review is April, 2016 – June, 2017 (15 months). However, injury analysis period covers 2013-14, 2014-15, 2015-16 and the period of investigation.
- xi. Transaction-wise imports data for the period of investigation and preceding three years was procured from the Directorate General of Commercial Intelligence and Statistics (DGCI&S) and the same has been relied upon for the purpose of analysis in this investigation.
- xii. The Authority made available non-confidential version of the application, data, responses filed and all the submissions presented by interested parties, in the form of an inspection folder open for inspection wherein NC version were provided to all the interested parties, wherever requested, as per Rule 6(7).
- xiii. The Authority has examined the information furnished by the domestic producers to the extent possible on the basis of guidelines laid down in Annexure III of the Rules to work out the cost of production and the non-injurious price of the subject goods.
- xiv. In accordance with Rule 6(6) of the Anti-Dumping Rules, the Authority also provided opportunity to the interested parties to present their views orally in an oral hearing held on 7.5.2018. The parties, who presented their views in the oral hearings, were requested to file written submissions of the views expressed orally, followed by rejoinder submissions.
- xv. The submissions made by the interested parties, arguments raised and information provided by various interested parties during the course of investigation, to the extent the same are supported with evidence and considered relevant to the present investigation, have been appropriately considered by the Authority in this Final Finding.
- xvi. The Authority, during the course of investigation, satisfied itself as to the accuracy of the information supplied by the interested parties, which forms the basis of this Final Finding to the extent possible and verified the data / documents given by the domestic industry to the extent considered relevant and necessary.
- xvii. The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by the interested parties. Submissions made by all interested parties have been taken into account in this Final Finding.
- xviii. Information provided by the interested parties on confidential basis were examined with regard to sufficiency of the confidentiality claims. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.

- xix. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority considered such interested parties as non-cooperative and recorded these findings on the basis of the ‘facts available.
- xx. A Disclosure Statement was issued on 19.7.2018 containing essential facts under consideration of the Designated Authority, giving time up to 25.7.2018 to furnish comments, if any, on Disclosure Statement. The Authority has considered post disclosure comments received from interested parties appropriately
- xxi. *** in this Final Finding represents information furnished by an interested party on confidential basis, and so considered by the Authority under the Rules.
- xxii. The exchange rate adopted by the Authority for the subject investigation is 1US\$=Rs. 67.46.

C. SCOPE OF PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

Views of the domestic industry

- 10. The domestic industry has made the following submissions with regard to the scope of product under consideration and like article:
 - a. The product under consideration for the purpose of the present investigation is the same as in the earlier investigations, that is, Sodium Hydroxide or Caustic Soda in all its forms, generally known as Caustic Soda. It is chemically denoted as NaOH, and is a soapy, strongly alkaline odourless liquid widely used in diverse industrial sectors, either as a raw material or as an auxiliary chemical.
 - b. Caustic soda is produced in two forms – lye and solids. Solids can be in the form of flakes, prills, granules or any other form.
 - c. Caustic soda is industrially produced as a 50% solution by variations of the electrolytic chlor alkali process, including the mercury cell process, diaphragm cell process and membrane cell process.
 - d. As noted in the previous investigations, the product produced by the petitioning domestic industry is like article to that imported from the subject countries.

Views of the opposing interested parties

- 11. No submissions were made by the other interested parties with regard to the scope of product under consideration or like article.

Examination by the Authority

- 12. The product under consideration in the present sunset review investigation is Sodium Hydroxide (chemical nomenclature NaOH), commonly known as Caustic Soda, in all forms.

13. 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 fiber, aluminium, cotton, textiles, toilet and laundry soaps, detergent, dyestuffs, drugs and pharmaceuticals, petroleum refining etc. Caustic soda is produced in two forms, that is, lye and solids by three technological processes, namely mercury cell process, diaphragm process and membrane process. The verification revealed that the DI is mainly using membrane technology, in fact world over the membrane technology is only being used. For the purpose of the investigation, the difference in processes does not lead to a difference in product in terms of various characteristics.
14. Caustic soda is classified under Chapter 28 of the First Schedule to the Customs Tariff Act, 1975 under Customs Heading 2815.11 and 2815.12. As per ITC eight digit classifications, the product is classified under the Customs Heading 2815.1110, 2815.1120 and 2815.1200. The classification is, however, indicative only and is in no way binding on the scope of the present investigation.
15. Since none of the opposing interested parties have made any comments or submissions with regard to product under consideration and like article, the scope of the product under consideration in the present review investigation remains the same as that in the earlier investigations.

D. LIKE ARTICLE

16. With regard to like article, as noted in the earlier investigations, there are no significant differences in the subject goods produced by the Indian industry and that exported from the subject countries. Even though the product is produced through different processes, the subject goods produced by the Indian industry and that imported from subject countries are comparable in terms of characteristics such as physical and chemical characteristics, manufacturing process and technology, functions and uses, product specifications, pricing, distribution and marketing, and tariff classification of the goods. The two are technically and commercially substitutable. The consumers are using the two interchangeably. None of the opposing interested parties have disputed the claims made by the domestic industry in this regard.
17. The subject goods produced by the petitioner companies are being treated by the Authority as like article to the subject goods imported from the subject countries, within the meaning of Rule 2(d) of the Anti-Dumping Rules.

E. DOMESTIC INDUSTRY AND STANDING

Views of the domestic industry

18. Views and response of the domestic industry on domestic industry and standing are as follows:

- a. The application was filed by M/s Alkali Manufacturers' Association of India (AMAI) on behalf of the domestic industry. The following domestic producers have participated in the present investigation, by providing the necessary costing information:
 1. M/s DCW Limited, Sahupuram
 2. M/s Grasim Industries Limited, pertaining to their six plants placed at Vilayat, Rehla, Karwar, Renukoot, Veraval and Ganjam. They have not given information pertaining to their seventh plant at Nagda.
 3. M/s SIEL Chemical Complex, Rajpura
- b. The petitioner companies constitute 25.06% share of total Indian production and is supported by producers which constitutes 100% of Indian production. Therefore the Authority holds that applicant companies constitute eligible domestic industry, as defined in Rule 2(b) of the Anti-Dumping Rules.
- c. Rule 2(b) does not provide the minimum threshold of major proportion in terms of a mathematical figure. Major proportion does not mean 50% or significantly more than 25% of Indian production. Moreover, in keeping with the provisions of Rule 23(1B), the provisions of Rule 5 are not applicable in case of a sunset review investigation.
- d. The Designated Authority has considered a proportion below 50% as a major proportion in several cases. M/s GACL is ineligible on account of being an importer also and on exclusion of their production, the participating producers account for 28% of the domestic production. Further, if production of those companies who treat chlorine as joint product is excluded, the share of petitioning companies shall constitute 36% of domestic production, which cannot be considered as insignificant.
- e. The petitioner companies have not claimed that the domestic industry is suffering continued injury and the claim of extension of anti-dumping duty is based on threat/likelihood of injury, hence, the scope of the domestic industry for the purpose of assessment of continued injury becomes secondary and less important

Views of the opposing interested parties

19. The views of the opposing interested parties with respect to domestic industry and standing are summarized as follows:
 - a. Since the petitioner companies constitute only 25.06% of domestic production, they do not constitute a major proportion to qualify as domestic industry. In the earlier investigations, the petitioner companies constituted much more than 25% of the domestic production. In EC – fasteners, Appellate Body did not consider 27% as major proportion for constituting domestic industry. There is no reasonable basis to exercise discretion by DA to allow just 25% share as domestic industry.

- b. Even in MTR, when the petitioner filed data for producers constituting 33%, the Authority had called for data to be filed for more producers, to bring the standing to 49.87%.
- c. As per the list of petitioners, Grasim, Ganjam is a participating producer, whereas as per the Annexure to the petition disclosing standing of the petitioner companies, DCM, Jhagadia has been mentioned in place of Grasim, Ganjam. Thus, the claim of 25% not supported by reliable information.

Examination by the Authority

20. The various submissions made by the interested parties during the course of the present investigation with regard to standing of petitioner and considered relevant by the Authority are examined and addressed in terms of Rule 2(b) of Anti-Dumping Rules.
21. The application for the present investigation was filed by the petitioner, M/s Alkali Manufacturers' Association of India (AMAI), on behalf of the domestic industry. It is noted that petitioner companies, that is M/s DCW Limited, M/s Grasim Industries Limited and M/s SIEL Chemical Complex constitute 25.19% of the domestic industry in the period of investigation. Further, it is noted that M/s Gujarat Alkalies and Chemicals Limited (GACL) is importing the subject goods from the subject countries and hence is ineligible to be the Domestic Industry and its production will not be counted for the purposes of estimating total production of the subject goods in India. It is noted that production of the participating companies is significant, thus, the petitioner companies constitute domestic industry within the meaning of the Anti-Dumping Rules, and the requirements of standing under Rule 5 of the Anti-Dumping Rules are duly satisfied. The Authority has not accepted the argument of the petitioner that the production of companies treating chlorine as joint product may be excluded for the purpose of determining the standing of the petitioner companies.
22. As regards reference to M/s DCM, Jhagadia in one of the statements in the petition, the petitioner clarified that this is a typographical error and M/s Grasim, Ganjam has provided data and not M/s DCM, Jhagadia.
23. In view of the above and after due examination, the Authority holds that the applicant industries satisfy the standing requirements and constitute domestic industry under Rule 2(b) and Rule 5(3) of the AD Rules.

F. ISSUES RELATING TO CONFIDENTIALITY

Views of the domestic industry

24. Excessive confidentiality claimed by the foreign producer/exporter thereby handicapping it in making meaningful comments with regard to the responses filed. Inter alia, they have failed to disclose the list of sample documents relating to domestic sales, actual or

indexed data relating to the selling price structure, capacity, indexed details of cost of production and details of raw materials used.

Views of the opposing interested parties

25. The Authority had already satisfied itself regarding their requests for confidentiality. The confidential treatment granted is based on the established practice of the DA. Moreover, the requests for disclosure made by the domestic industry were either unreasonable or made without application of mind.
26. The DI has claimed complete confidentiality regarding its own cost of production in Annexures 6.2 to 6.6 of the petition and has not even provided any summarization. In fact the DI has specifically stated that such information is ‘business proprietary information and is not amenable to summarization’.

Examination by the Authority

27. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis was directed to provide sufficient non confidential version of the information filed on confidential basis. The Authority made available the non-confidential version of the evidences submitted by various interested parties in the form of public file.

G. MISCELLANEOUS SUBMISSIONS

Views of the domestic industry

28. Responding to the arguments of the opposing interested parties, the domestic industry submitted as follows:
 - a. The period for which duty has been in force is irrelevant for determining whether there is a need for continuation of duties. The law provides for extension of duties if the cessation of such duties is likely to lead to continuation or recurrence of dumping or injury. Even as per the practice of other countries such as Canada, USA, Brazil and European Union, duties may continue to be in force for more than 15 years, even if there are no imports of the subject goods.
 - b. As regards the argument that anti-dumping duties have been discontinued against 9 out of 13 countries initially attracting the levy, it was argued that this fact itself establishes that the duty has been extended only in those cases where cessation of duty is likely to lead to continuation or recurrence of dumping or injury.

- c. The Authority has initiated the investigation only after receipt of a duly substantiated application filed by the petitioner, and thus, there is no force in the argument that the investigation should not have been initiated.

Views of the opposing interested parties

29. The following other miscellaneous submissions have been raised by the opposing interested parties:
 - a. The duties have been in force for a period of 17 years. The domestic industry has received adequate protection by way of anti-dumping duties since 2000, and no further protection is required.
 - b. Initially, in 2000, anti-dumping duties were imposed against imports of subject goods from 13 countries. The duties have already been withdrawn against 9 out of these 13 countries and should be withdrawn against the subject countries as well.
 - c. The data relating to third country exports from Saudi Arabia provided by the petitioner is unreliable as the source of information has not been provided.
 - d. Relying on the decision of the Hon'ble High Court of Delhi in the case of Kesoram Rayon, the parties urged that it was not mandatory on the part of the Authority to initiate sunset review investigation, and the Authority was required to satisfy itself regarding whether the application received is duly substantiated.
 - e. The application filed by the petitioner proposed the period of investigation as 2016-17, whereas the investigation was initiated considering the period of investigation as April, 2016 to June, 2017. Thus, there has been a violation of the Rule 5 of the Anti-Dumping Rules since the investigation has been initiated without actually examining the data for the complete period of investigation.

Examination by the Authority

30. The specific submissions made by the opposing interested parties and considered relevant, are addressed by the Authority as below:
 - a. As regards the continuation of duty beyond a period of 17 years, the Authority finds that the duties have been extended in the past only when it was found after investigation that there was likelihood of continuation or recurrence of dumping or injury in the event of cessation of duty. The very fact that duties have been discontinued against 9 out of 13 countries against which they were imposed, and three out of five countries for which the present case was originally initiated, have been excluded, itself shows that the Authority has not extended any duty on the request of the domestic industry and has considered whether there was likelihood of continuation or recurrence of dumping or injury if the duties are not continued against a particular country.

- b. The veracity of the data provided by the domestic industry has been examined by the Authority, and the same has been considered only after the adequacy and accuracy thereof has been established.
- c. The present sunset review has been initiated by the Authority after being prima facie satisfied regarding the need to examine the likelihood of continuation or recurrence of dumping or injury, on receipt of a duly substantiated petition. The Authority has not initiated investigations considering such investigations as a mandatory requirement.
- d. As regards the change in period of investigation at the time of initiation, the Authority notes that the Rules do not necessitate that the period for which the investigation is conducted should be the same as the period of investigation for which petition was filed. The Authority had, before initiating, prime facie satisfied itself regarding the need to examine the likelihood of continuation or recurrence of dumping or injury. The Authority, however, considered it appropriate to adopt a more recent period to determine likelihood of dumping and injury. The procedure followed by the Authority is in conformity with the consistent practice of the Authority in this regard. It is also noted that Rule 5 is not applicable for sunset review investigations and initiation of investigation is governed by Rule 23.

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

- 31. The Authority sent questionnaires to the known exporters from the subject countries, advising them to provide information in the form and manner prescribed. Only one producer in Saudi Arabia, namely M/s Saudi Petrochemical Company (SADAF) and its related exporter, M/s Saudi Basic Industries (SABIC) filed a response to the exporters' questionnaire. However, the participating exporter has reported that there were no exports by the company during the period of investigation.

Views of the domestic industry

- 32. The domestic industry submitted as follows with regard to the determination of normal value and export price:
 - a. The participating producer and exporter have not denied the dumping of the subject goods in India. If the data as per IHS Chemical reports is considered, it would be seen that the dumping margin is not only positive but also significant.
 - b. The additional information as required in questionnaires issued vide Trade Notice No. 5/2018 dated 28th February, 2018 should be called for as such information is relevant for the purposes of ongoing investigations as well.
 - c. Since the exporter, M/s Shell Trading Middle East Pvt. Ltd. (STME), has not filed a response, the response filed by the producer, SADAF should not be accepted and individual dumping margin should not be allowed.

- d. While SABIC and SADAF have claimed to have no exports to India, there is no response from any other exporter from Saudi Arabia. Further, none of the producers/ exporters from USA have participated in the present investigation. Thus, the normal value for each country should be calculated on the basis of selling price as per Global Chlor Alkali Report (IHS Chemical), furnished by the domestic industry.
- e. The export price should be determined on the basis of the data as per DGCI&S and adjustments towards ocean freight, marine insurance, commission, bank charges, port expenses and inland freight should be made as per best estimates.
- f. Selling, general and administrative expenses and profit of the exporter must be adjusted for determination of export price, as per the consistent practice of the Authority.
- g. Responding to the plea that normal value should be considered on the basis of the prices in the first three months of the period of investigation, it was argued that the Authority has not undertaken a month by month analysis of dumping margin and injury margin in the present case and thus, the fact that imports took place in only part of the period of investigation is irrelevant.
- h. Responding to submissions of the other interested parties in this regard, it was highlighted that in the earlier investigations as well, the exporter has claimed normal value on a weighted average basis. Moreover, no difference in the level of trade was claimed in the earlier investigations. Thus, there is no reason for a change in the manner of determining the normal value in the present investigation.
- i. In response to the contention of the exporter that STME has no business interest in exports and has, thus, not participated, it was argued that current ownership of the producer is irrelevant in this regard. Unless the concerned exporter files a response to the exporters' questionnaire, the response filed by the producer cannot be accepted.
- j. The adjustments to export price have been claimed on the basis of industry experience and market information.
- k. The petitioner has made adjustments on account of ocean freight, marine insurance, commission, bank charges, port expenses and inland freight to the CUIF price reported in the DGCI&S data, to determine price at the ex-factory level. Since none of the exporters exporting the goods during POI have participated in the investigation, it is requested that adjustments to export price may be made as per best estimates, in keeping with normal practice of the Authority.
- l. A fair comparison be made between the export price and normal value, at the same level of trade, at ex-factory level. For this, it is necessary that S&G expenses and profits of the exporter are also reduced for determining export price.

Views of the opposing interested parties

33. The submissions of the other interested parties with regard to the determination of normal value and export price are summarized hereunder:

- a. SADAF made some exports to India through STME during the period of investigation. However, since the marketing agreement between SADAF and STME was valid only till 30th September, 2017, and thus, has no business interest in exports of subject goods and has not filed response in the present investigation.
- b. The petitioner has not provided any evidence forming basis for adjustments made for determining export price, and thus, the investigations should not have been initiated on the basis of the petition filed.
- c. Price is taken as per Chlor Alkali report for the period of investigation whereas exports has been made only during the first three months April to June 2016. Thus, there is no fair comparison as required in para 6 of Annexure I.
- d. Normal value should also be adjusted to arrive at ex-factory level. Comparison between ex-factory normal value and ex-factory export price would demonstrate that there is no dumping from Saudi Arabia.
- e. The data filed by the respondent should be used to compute the normal value and dumping margin.
- f. Responding to the allegation of the domestic industry, it was submitted that there is no occasion for the exporters to claim a dumping margin in the response to exporters' questionnaire. In any case, the exporters have specifically claimed in their submissions that there is no dumping.
- g. With regard to the requirements for additional information, it was submitted that Trade Notice No. 5/2018 was applicable only to investigations initiated after such 28th February, 2018.
- h. As regards the claim of the domestic industry that selling, general and administrative expenses and profits of exporters must be reduced, it was urged that the domestic industry has already claimed an adjustment of 3% towards commission, which would be sufficient to cover such expenses and profits.

Examination by the Authority

34. The questionnaire response in the present case has been filed by M/s Saudi Petrochemical Company (SADAF) (producer) along with its related exporter M/s Saudi Basic Industries (SABIC). As per the response they have declared export of *** MT which is much less than the quantities obtained from the data from DGCI&S which is to the extent of 32,097 MT of caustic soda lye. It has been examined and found that the difference is on account of the fact that the exporter had invoiced the goods before the POI, therefore not declared in Appendix 2, however, the goods landed in India during POI and hence captured in DGCI&S data.
35. It is seen that SADAF is the producer of the product under consideration and has sold goods to related exporter for exports to India. The said goods were exported to India by M/s Shell Trading Middle East Pvt. Ltd. (STME) who has not filed questionnaire response. The producer has stated that STME has sold off their share and are no more part of SADAF. Further, another related company of the producer, SABIC has claimed that it is an exporter of the product under consideration to India. However, the company

has not exported subject goods during the POI. The price at which goods have been exported to India and a number of other information relevant to determination of export price is with STME, which has not cooperated with the authority. The authority considers that since STME has not filed questionnaire response, SADAF-STME cannot be granted individual dumping margin. Further, since SABIC has not exported the product to India during the POI, it cannot claim the status of exporter. Thus, the Authority is unable to determine individual dumping margin either for SADAF-STME or for SADAF-SABIC. The Authority determined the dumping margin for imports from Saudi Arabia on the basis of best available information.

36. The Authority finds no merit in the contention of the opposing parties that dumping margin should be calculated considering the normal value for the first three months only, as such a month-wise analysis has not been undertaken in any previous investigation relating to the subject goods, despite the fact that the imports were not present throughout the POI in a number of investigations. Further, the participating producer has not even claimed separate cost of production of the subject goods over the POI. Therefore, the normal value and export price are determined as under:

I. NORMAL VALUE

37. The Authority determined the normal value on the basis of the best available information, in terms of Rule 6(8) of the Anti-Dumping Rules. Accordingly, the normal value has been constructed considering the cost of production of most efficient Domestic Industry. Further, reasonable profit @5% of cost of production has also been added for constructing Normal Value.

II. EXPORT PRICE

38. The Authority has determined the export price in respect of imports from each of the subject countries on the basis of best information available in accordance with the Rules. For this purpose, the Authority has adopted the transaction-wise data procured from the DGCI&S and determined the export price considering all imports of the product under consideration in India. The export price has been adjusted for ocean freight, marine insurance, commission, port expenses, inland freight expenses and bank charges to determine ex-factory export price of the product under consideration.

III. DUMPING MARGIN

39. The subject goods are produced and traded in two forms namely lye and flake. However, as imports have been made only in lye form, accordingly, the normal value for lye form has been compared with net export price for calculation of dumping margin. After the analysis of the data, the dumping margin is worked out as mentioned in the table below.

| S.N. | Country of Export | Constructed Normal Value | Net Export Price | Dumping Margin | | |
|------|-------------------|--------------------------|------------------|----------------|-----|---------|
| | | US\$/MT | US\$/MT | US\$/MT | % | Range |
| 1 | Saudi Arabia | *** | *** | *** | *** | 20-30 |
| 2 | USA | *** | *** | *** | *** | 105-115 |

40. The dumping margin so determined against the subject countries is positive for the Period of Investigation.

I. METHODOLOGY FOR INJURY DETERMINATION

Views of the domestic industry

41. The domestic industry has submitted as follows with regard to injury and causal link:
- a. While the imports during POI have declined as compared to the base year 2013-14 but when examined for the injury period on year to year basis, imports show increase during 2016-17 over 2015-16 and during 2015-16 over 2014-15. Further, the producers in the subject countries have excess capacities, which may be diverted to take over the market in India.
 - b. While the imports are not very significant in relation to production or consumption, this is only the impact of the anti-dumping duties in force. In the event of expiry of duty, the imports are likely to increase.
 - c. The volume of imports from Saudi Arabia have declined only for the reason that the agreement between STME and SABIC came to an end. While exports by STME attracted nil duty, the goods if invoiced by SABIC were chargeable to duty. Therefore, after the agreement came to an end, SABIC had no option but to stop exporting the product and await expiry of duty.
 - d. The imports have been undercutting the prices of the domestic industry, which shows that in the event of cessation of duty, the domestic industry would face injury.
 - e. If the domestic industry is forced to compete with the imports at their landed price excluding duty, its profitability would suffer.
 - f. The landed price of imports is below fair selling price or non-injurious price of the domestic industry.
 - g. While the production and capacities of the domestic industry increased, the increase in production is less as compared to the capacities created.
 - h. While the market share of the domestic industry had been increasing upto 2015-16, it has decreased in the period of investigation.
 - i. The average stock of the domestic industry increased over the injury period, upto 2015-16, although it has declined in the period of investigation.
 - j. There has been an increase in the profits, cash profits and return on investment of the domestic industry due to the anti-dumping duties in force.

- k. The only reason the domestic industry did not suffer deterioration in its performance is that the volume of imports was low due to the duties in force.
- l. Regarding the arguments of the opposing interested parties, it is submitted that price suppression or depression during the injury period are relevant only in a case of a fresh investigation or a where there is continued injury.
- m. The contention of the exporter that injury margin should be determined on the basis of the non-injurious price in the first three periods was mala fide as no such claim was made in the past, when there were variations in prices.
- n. There is no requirement for evaluation of causal link in case of a sunset review investigation.
- o. Since the domestic industry has only claimed threat or likelihood of injury, water shortages, scarcity of raw material and other factors highlighted by the opposing interested parties are not relevant.
- p. When the domestic industry has not claimed actual injury, there can obviously be no causal link between the dumping and injury. The causal link would be relevant only in determining whether withdrawal of duty is likely to cause injury to the domestic industry.
- q. Responding to submissions in this regard, it was argued that the imports from other countries are at much higher prices than the subject imports. Thus, they did not cause injury to the domestic industry.

Views of the opposing interested parties

- 42. The submissions made by the opposing interested parties with regard to injury and causal link are as follows:
 - a. Total imports from Saudi Arabia have declined in absolute terms and in relation to total imports as well as domestic production.
 - b. Majority of the imports have been made from the countries against which duty has been withdrawn.
 - c. There is no price suppression or depression as the domestic industry has been able to increase its selling price despite decline in cost and in landed price.
 - d. Even though price undercutting in the period of investigation was higher vis-à-vis 2015-16, the profits of the domestic industry increased between this period.
 - e. While the petitioner has not calculated any price undercutting for 2013-14 and 2015-16, positive price undercutting has been computed for the subject countries as a whole. Evidently, the calculations by the domestic industry are completely erroneous.
 - f. Since the imports have taken place only during the first three months, that is, April to June, 2016, the non-injurious price should be determined for that period and compared to landed value of the imports to ensure fair comparison between the two.
 - g. Despite the high price underselling, the domestic industry has been able to make record profits, indicating a severe breach in causality.

- h. In spite of the increase in imports, all economic parameters of the domestic industry, including production, capacity, capacity utilization, sales, inventories, profits and return on capital employed, have witnessed an improvement over the injury period. Thus, there is no need for continuation of duty.
- i. When the domestic industry has itself admitted that it has not suffered injury during the injury period, the claim that there is some decline in period of investigation as compared to previous year is irrelevant.
- j. The injury margin should be calculated on a weighted average basis considering all transactions, and not on the basis of transactions that are below non-injurious price, as has been claimed by the petitioner.
- k. If the domestic industry continues to be injured even after 14 years of duty, it is obvious that the injury is a result of extraneous factors.
- l. DCW Limited has stated that it experienced a fall in the turnover of subject goods on account of water shortage in Tamil Nadu and the labour issues in Sahapuram, which led a plant shutdown. Grasim Industries Limited has mentioned in its Annual Report for 2016-17 that it suffered on account of demonetisation, while SIEL has admitted that high cost of raw material is the reason of injury thereto. Thus, the injury to the domestic industry has not been caused by the subject imports.
- m. SIEL has reported that there was a shortage of caustic soda due to the decline in imports. Had the imports been preventing the domestic industry from increasing its sales, it should have been able to increase its sales volume with the duties in place.
- n. The major consumer of the subject goods, that is the aluminium industry, is located at the eastern coast whereas the petitioning industry is located at the western coast. The high cost of transporting the goods from the western coast, increases the demand for imports.
- o. The data provided by the petitioner is inconsistent, and incorrect. The demand in the petition and that in the Annexure do not reconcile. Further, the petitioner has not provided any information relating to return on investment.
- p. When the domestic industry had claimed in the petition that there is likelihood of injury due to imports from Saudi Arabia, Iran, Japan and USA, it cannot now claim that it is reasonable to assume causal link between injury and dumping from Saudi Arabia and USA only.
- q. The Authority has, in some past sunset review cases, concluded that the injury to the domestic industry was not on account of dumped imports, but other factors and therefore, the duties were not continued. Similarly, in the present case as well, the Authority should determine if there is a causal link between the alleged dumping and alleged injury to the domestic industry, if any.

Examination by Authority

43. The injury analysis made by the Authority hereunder ipso facto addresses the various submissions made by the interested parties. However, the specific submissions made by the interested parties are addressed by the Authority as below:
- a. For the purpose of injury analysis, the Authority has considered the data provided by the domestic industry after due verification to ensure its adequacy and accuracy.
 - b. The determination of NIP was done on the basis of data provided by the petitioner companies after due verification. It was noted that the domestic industry treated chlorine and hydrogen as by product. Chlorine Gas are liquefied for merchant sales or used captively in gas form to manufacture further value added product. For most of the units Chlorine is the bottle neck for the production of Caustic Soda, some time they are forced to shut down the plant in absence of sufficient storage capacity/sales of Chlorine. In most of the cases chlorine are cleared at loss or buyer has to be paid freight charges to collect the delivery. Domestic Industry claimed return on fixed assets used for the Chlorine and Hydrogen plant, since both are part of Caustic soda manufacturing process.
 - c. Factors prevailing in the injury period or period of investigation, such as scarcity of water, raw material, demonetisation and such are relevant only in a situation where there has been any deterioration in the performance of the domestic industry. When the domestic industry has not claimed any material deterioration in its performance on account of the dumped imports, the fact that there had been a shortage of water or plant shut down for any other reason, or that the domestic industry suffered on other accounts does not imply break in causal link. Similarly, when the domestic industry has been able to increase its market share, it cannot be said that there is injury on account of geographical disadvantages suffered by the domestic industry. It is only in cases where the domestic industry has suffered injury in the investigation period, but the injury is attributable to other factors, all such factors become relevant for examination. The present case is for consideration of threat/likelihood of injury to the domestic industry with cessation of anti-dumping duty.
 - d. As regards the contention of the parties that the profits have increased, despite price undercutting reducing in the period of investigation, the Authority notes that the positive price undercutting and underselling merely demonstrates that the landed price of imports is below the selling price and non-injurious price, implying that the domestic industry would have to sell below the non-injurious price and its profitability would decline in the event of cessation of anti-dumping duty.
44. Rule 11 of the Anti-Dumping Rules read with its Annexure – II thereto provides that an injury determination shall involve examination of factors that may indicate injury to the domestic industry, “... taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the

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

45. Rule 23 of the Rules provide that the provisions of Rule 6, 7, 8, 9, 10, 11, 16, 17, 18, 19, and 20 shall apply mutatis mutandis in case of a review. In case the performance of the domestic industry shows that it has not suffered injury during the current injury period, the Authority shall determine whether cessation of the present duty is likely to lead to recurrence of injury to the domestic industry.
46. In consideration of the various submissions made by the interested parties in this regard, the Authority proceeds to examine the current injury, if any, to the domestic industry before proceeding to examine the likelihood aspects of dumping and injury on account of imports from the subject countries. For this purpose, the Authority has considered such indices having a bearing on the state of the industry as production, capacity utilization, sales quantum, stock, profitability, net sales realization and the magnitude and margin of dumping in accordance with Annexure – II of the Rules.

I. CUMULATIVE ASSESSMENT OF INJURY

47. Annexure II (iii) of the Anti-Dumping Rules provides that in case imports of a product from more than one country are being simultaneously subjected to anti-dumping investigations, the Designated Authority will cumulatively assess the effect of such imports, in case it determines that: -
 - a. the margin of dumping established in relation to the imports from each country/territory is more than two percent expressed as percentage of export price and the volume of the imports from each country is three percent of the imports of the like article or where the export of the individual countries is less than three percent, the imports cumulatively account for more than seven percent of the imports of like article, and;
 - b. Cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic articles.
48. In the present case, the margin of dumping from each of the subject countries have been found to be more than the de minimis limit prescribed; the volume of dumped imports from each of the subject countries is more than the limits prescribed; and the exports from the subject countries directly compete inter se and with the like goods offered by the domestic industry in the Indian market. Cumulative assessment of the effects of the dumped imports is appropriate in the light of the conditions of competition between the

imported products and the conditions of competition between the imported products and the like domestic product. The Authority, therefore, considers it appropriate to cumulatively assess the effect of dumped imports from the subject countries.

II. TOTAL DEMAND & MARKET SHARE

49. For the purpose of assessment of the domestic consumption / demand of the subject goods, the sales volume of the domestic industry and other Indian producers have been added to the total imports into India and the same has been summarized below. Caustic soda is manufactured in two forms, lye as well as flake and both the forms are covered within the scope of the subject goods in the original as well as present review investigation.

| SN | Particulars | UO M | 2013-14 | 2014-15 | 2015-16 | POI | POI (A) |
|----|--|---------|-----------|-----------|-----------|-----------|-----------|
| A | Volume of subject goods | | | | | | |
| 1 | Petitioner companies | MT | *** | *** | *** | *** | *** |
| 1a | Trend | Indexed | 100 | 124 | 146 | 184 | 147 |
| 2 | Other Indian producers | MT | *** | *** | *** | *** | *** |
| 2a | Trend | Indexed | 100 | 104 | 101 | 135 | 108 |
| 3 | Imports from Subject Countries | MT | 52,081 | 13,151 | 25,036 | 49,065 | 39,252 |
| 4 | Imports- other countries attracting duties | MT | 100,043 | 180,974 | 89,711 | 78,883 | 63,106 |
| 5 | Imports-Other countries | MT | 152,350 | 212,532 | 360,140 | 378,869 | 303,096 |
| 6 | Total Demand | MT | 2,756,353 | 3,048,528 | 3,176,062 | 4,047,653 | 3,238,122 |
| B | Market Share in Demand | | | | | | |
| 7 | Domestic Industry | % | *** | *** | *** | *** | *** |
| 7a | Trend | Indexed | 100 | 112 | 129 | 129 | 129 |
| 8 | Other Indian producers | % | *** | *** | *** | *** | *** |
| 8a | Trend | Indexed | 100 | 93 | 88 | 92 | 92 |
| 9 | Imports-Subject Countries | % | 2 | 0 | 1 | 1 | 1 |
| 10 | Imports- other countries attracting duties | % | 4 | 6 | 3 | 2 | 2 |
| 11 | Imports-Other countries | % | 6 | 7 | 11 | 9 | 9 |

50. It is seen that the demand for the subject goods has been steadily increasing over the injury period and the POI. The sale of the Domestic Industry is increasing consistently during the entire injury period and the POI(A). The sale of other Indian producers has remained significant and increased continuously during the entire injury period and the POI(A). The imports from the subject countries has declined during the entire injury period and have increased slightly during the POI(A) when compared to the previous year. Similarly, the imports from countries attracting ADD excluding the subject

countries has increased slightly during 2014-15 but thereafter decreased consistently during the rest of the injury period and the POI(A). The imports from rest of the countries has increased consistently during the entire injury period but has declined slightly during the POI(A) when compared to the previous year.

51. The market share of the sales of the Domestic Industry in total demand of PUC in India has remained almost same during the entire injury period and POI, however, the market share of the sales of other Indian producers in total demand of the PUC in India although slightly declining has remained significant. The market share of imports in total demand of the subject goods in India has been low throughout the injury period which may be due to the facts of ADD in force. The market share of imports from other countries attracting ADD & rest of the countries is not significant although it is more than the imports from the subject countries.

III. VOLUME EFFECT OF DUMPED IMPORTS

52. With regard to the volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India. For this purpose, the Authority has relied upon the import data procured from DGCI&S. The volume of imports of the subject goods from the subject countries has been analyzed as under:

a. IMPORT VOLUME, SHARE OF IMPORTS IN RELATION TO PRODUCTION AND CONSUMPTION

53. The data relating to the volume of imports and share of imports are as given below:

| SN | Particulars | UOM | 2013-14 | 2014-15 | 2015-16 | POI | POI (A) |
|--------|---|---------|-----------|-----------|-----------|-----------|-----------|
| 1 | Total Demand | MT | 2,756,353 | 3,048,528 | 3,176,062 | 4,047,653 | 3,238,122 |
| 2 | Domestic production | MT | *** | *** | *** | *** | *** |
| 2a | Trend | Indexed | 100 | 105 | 110 | 144 | 115 |
| 3 | Imports | | | | | | |
| 3a | Imports-Subject Countries | MT | 52,081 | 13,151 | 25,036 | 49,065 | 39,252 |
| 3a(i) | Saudi Arabia | MT | 52,081 | 13,144 | 25,036 | 32,097 | 25,678 |
| 3a(ii) | USA | MT | - | 7 | - | 16,968 | 13,574 |
| 3b | Imports – other countries attracting duties | MT | 100,043 | 180,974 | 89,711 | 78,883 | 63,106 |
| 3c | Imports-Other countries | MT | 152,350 | 212,532 | 360,140 | 378,869 | 303,096 |
| 3d | Total Imports | MT | 304,474 | 406,657 | 474,887 | 506,817 | 405,454 |
| 4 | Share in Imports in relation to total Imports | | | | | | |
| 4a | Imports-Subject Countries | % | 17 | 3 | 5 | 10 | 10 |

| SN | Particulars | UOM | 2013-14 | 2014-15 | 2015-16 | POI | POI (A) |
|--------|--|---------|-----------|-----------|-----------|-----------|-----------|
| 1 | Total Demand | MT | 2,756,353 | 3,048,528 | 3,176,062 | 4,047,653 | 3,238,122 |
| 2 | Domestic production | MT | *** | *** | *** | *** | *** |
| 2a | Trend | Indexed | 100 | 105 | 110 | 144 | 115 |
| 3 | Imports | | | | | | |
| 4a(i) | Saudi Arabia | MT | 52,081 | 13,144 | 25,036 | 32,097 | 25,678 |
| 4a(ii) | USA | MT | - | 7 | - | 16,968 | 13,574 |
| 4b | Imports -countries attracting duties(excluding subject counties) | % | 33 | 45 | 19 | 16 | 16 |
| 4c | Imports-Other countries | % | 50 | 52 | 76 | 75 | 75 |
| 5 | Share of imports from subject countries in relation to | | | | | | |
| 5a | Production | % | *** | - | *** | *** | *** |
| 5a(i) | Trend | Indexed | 100 | - | 50 | 50 | 50 |
| 5b | Consumption | % | 2 | 0 | 1 | 1 | 1 |

54. It is seen that the demand of PUC in India has been increasing consistently throughout the injury period and the POI (examined on annualized estimates), however, imports from the subject countries have declined from base year to 2015-16, although during the POI (A) the imports have increased as compared to the previous year i.e. 2015-16. Share of imports from the subject countries in total imports of the PUC is not significant and also declining throughout the injury period but has increased slightly during the POI (A) when compared to previous years i.e. 2014-15 & 2015-16. The imports from other countries are significant and also increasing consistently. The share of imports in relation to production and consumption in India is almost negligible and also declining.

IV. PRICE EFFECT OF DUMPED IMPORTS

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

a. PRICE UNDERCUTTING

56. Price undercutting has been assessed by comparing the landed price of imports with the domestic selling price in India of the subject goods during the period of investigation. For this purpose, the average selling price of the domestic industry net of all rebates and taxes, at the ex-factory level has been adopted. In order to ensure fair comparison, only the selling price of caustic soda in lye form has been considered.

| SN | Particulars | UOM | 2013-14 | 2014-15 | 2015-16 | POI |
|----|--|---------|---------|---------|---------|--------|
| 1 | Landed price of imports | Rs./MT | 22,804 | 22,761 | 24,880 | 23,371 |
| 2 | Net sales realization of domestic industry | Rs./MT | *** | *** | *** | *** |
| 2a | Trend | Indexed | 100 | 97 | 95 | 99 |
| 3 | Price undercutting | Rs./MT | *** | *** | *** | *** |
| 3a | Trend | Indexed | 100 | 81 | 7 | 77 |
| 4 | Price undercutting | % | *** | *** | *** | *** |
| 4a | Trend | Indexed | 100 | 86 | 7 | 79 |
| 5 | Price undercutting Range | % | 10-20 | 5-15 | 0-5 | 5-15 |

57. It is seen that the landed price of imports is lower than the selling price of the domestic industry. The imports from the subject country are below the selling price of the domestic industry throughout the injury period and POI indicating therewith that NSR of DI is consistently higher than the landed value.

b. PRICE SUPPRESSION AND DEPRESSION

58. In order to determine whether the dumped imports are suppressing or depressing the domestic prices and whether the effect of such imports is to suppress prices to a significant degree or prevent price increases which otherwise would have occurred to a significant degree, the Authority considered the changes in the costs and prices over the injury period. The position is shown as per the table below:

| SN | Particulars | UOM | 2013-14 | 2014-15 | 2015-16 | POI |
|----|------------------------------------|---------|---------|---------|---------|--------|
| A | Caustic Soda in form of Lye | | | | | |
| 1 | Landed price of imports | Rs./MT | 22,804 | 22,761 | 24,880 | 23,371 |
| 1a | Trend | Indexed | 100 | 100 | 109 | 102 |
| 2 | Cost of sales of domestic industry | Rs./MT | *** | *** | *** | *** |
| 2a | Trend | Indexed | 100 | 98 | 83 | 84 |
| 3 | Selling price of domestic industry | Rs./MT | *** | *** | *** | *** |
| 3a | Trend | Indexed | 100 | 97 | 95 | 99 |
| B | Caustic Soda in form of Flakes | | | | | |
| 4 | Cost of sales of domestic industry | Rs./MT | *** | *** | *** | *** |

| SN | Particulars | UOM | 2013-14 | 2014-15 | 2015-16 | POI |
|----|------------------------------------|---------|---------|---------|---------|-----|
| 4a | Trend | Indexed | 100 | 111 | 96 | 99 |
| 5 | Selling price of domestic industry | Rs./MT | *** | *** | *** | *** |
| 5a | Trend | Indexed | 100 | 101 | 104 | 116 |

59. From the above, it is seen that the landed price of the imports increased till 2015-16, and thereafter declined in the period of investigation. By contrast, the selling price of the domestic industry, for caustic soda in lye form, has declined upto 2015-16, and increased in the period of investigation, notwithstanding a decrease in costs. Similarly, in the case of caustic soda in flakes form, the selling price of the domestic industry has increased over the injury period, even though the cost of such goods has marginally decreased vis-à-vis the base year. Therefore, the data on record does not show any price suppression or depression on account of dumped imports.

c. PRICE UNDERSELLING

60. For the purpose of calculating the price underselling, the non-injurious price has been worked out, in accordance with Annexure – III of the Anti-Dumping Rules and compared with the landed value of the subject goods. In order to ensure a fair comparison, the non-injurious price has been calculated for the subject goods produced in the form of lye only.

| Country | Landed value | Non-injurious price | Price Underselling | | |
|--------------|--------------|---------------------|--------------------|-----|-------|
| | US\$/MT | US\$/MT | US\$/MT | % | Range |
| Saudi Arabia | 358 | *** | *** | *** | 10-20 |
| USA | 323 | *** | *** | *** | 20-30 |

61. From a comparison of the landed value with the non-injurious price, it is noted that the price underselling is positive, and the subject imports are at prices, significantly below the Non-Injurious Price.

V. ECONOMIC PARAMETERS OF DOMESTIC INDUSTRY

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

63. The various injury parameters relating to the domestic industry are discussed herein below:

a. Profits and actual and potential effects on the cash flow

64. The domestic industry has stated that with the duties in force, the domestic industry has moved into a situation of profits from its earlier situation of losses. Resultantly, profit before interest, cash profits and return on investment have also improved. However, the return on investment of the industry is at a modest level.

| SN | Particulars | UOM | 2013-14 | 2014-15 | 2015-16 | POI | POI (A) |
|----|------------------------|----------|---------|---------|---------|-------|---------|
| 1 | Cost of Sales | Rs./MT | *** | *** | *** | *** | *** |
| 1a | Trend | Indexed | 100 | 100 | 85 | 86 | 86 |
| 2 | Selling Price | Rs./MT | *** | *** | *** | *** | *** |
| 2a | Trend | Indexed | 100 | 98 | 100 | 109 | 109 |
| 3 | Profit / Loss | Rs./MT | (***) | (***) | *** | *** | *** |
| 3a | Trend | Indexed | (100) | (199) | 2,915 | 5,677 | 5,677 |
| 4 | Profit / Loss | Rs. Lacs | (***) | (***) | *** | *** | *** |
| 4a | Trend | Indexed | (100) | (117) | 771 | 1,472 | 1,840 |
| 5 | Profit before interest | Rs. Lacs | *** | *** | *** | *** | *** |
| 5a | Trend | Indexed | 100 | 69 | 219 | 350 | 437 |
| 6 | Cash profits | Rs. Lacs | *** | *** | *** | *** | *** |
| 6a | Trend | Indexed | 100 | 108 | 369 | 523 | 653 |
| 7 | Return on investment | % | *** | *** | *** | *** | *** |
| 7a | Trend | Indexed | 100 | 64 | 179 | 284 | 284 |

65. It is seen that the profit, profit before interests, cash profits and ROI has increased positively and significantly showing improvement is the condition of DI.

b. Capacity, Production, Capacity Utilization and Sales

66. The production, capacity, capacity utilization and sales of the domestic industry are as shown in the table below.

| SN | Particulars | UOM | 2013-14 | 2014-15 | 2015-16 | POI | POI (A) |
|----|----------------------|---------|---------|---------|---------|-----|---------|
| 1 | Capacity | MT | *** | *** | *** | *** | *** |
| 1a | Trend | Indexed | 100 | 119 | 129 | 175 | 140 |
| 2 | Production | MT | *** | *** | *** | *** | *** |
| 2a | Trend | Indexed | 100 | 122 | 144 | 185 | 148 |
| 3 | Capacity utilization | % | *** | *** | *** | *** | *** |
| 3a | Trend | Indexed | 100 | 102 | 112 | 106 | 106 |
| 4 | Domestic sales | MT | *** | *** | *** | *** | *** |
| 4a | Trend | Indexed | 100 | 123 | 145 | 185 | 148 |

67. It is seen that the capacity, production and sales of the domestic industry have increased over the injury period. Further, the capacity utilization has also increased between 2013-14 to 2015-16, although it has witnessed a decline in the period of investigation when compared to previous year.

c. Inventories

68. The data relating to inventory of the subject goods is shown in the following table:

| SN | Particulars | UOM | 2013-14 | 2014-15 | 2015-16 | POI | POI (A) |
|----|-------------------|---------|---------|---------|---------|-----|---------|
| 1 | Opening inventory | MT | *** | *** | *** | *** | *** |
| 2 | Closing inventory | MT | *** | *** | *** | *** | *** |
| 3 | Average inventory | MT | *** | *** | *** | *** | *** |
| 3a | Trend | Indexed | 100 | 97 | 102 | 84 | 84 |

69. From the above, it is noted that the average inventory situation of the Domestic Industry has improved during the injury period indicating better market placement of the domestic industry.

d. Employment, wages and productivity

70. The data relating to Employment, wages and productivity is shown in the following table:

| SN | Particulars | UOM | 2013-14 | 2014-15 | 2015-16 | POI | POI (A) |
|----|---------------------------|----------|---------|---------|---------|-----|---------|
| 1 | Employees | Nos. | *** | *** | *** | *** | *** |
| 1a | Trend | Indexed | 100 | 105 | 107 | 107 | 107 |
| 2 | Wages | Rs. Lacs | *** | *** | *** | *** | *** |
| 2a | Trend | Indexed | 100 | 108 | 137 | 169 | 135 |
| 3 | Productivity per employee | MT | *** | *** | *** | *** | *** |
| 3a | Trend | Indexed | 100 | 116 | 135 | 139 | 139 |

71. It is noted from the above table that the wages and number of employees of the domestic industry have increased. Productivity per employee has improved during the injury period and POI(A). The increase in productivity per employee indicates better efficiencies and increase in wages could be in response to the progressive state of normal market conditions with time.

e. Magnitude of dumping and Dumping Margin:

72. Magnitude of dumping is an indicator of the extent to which the dumped imports can cause injury to the domestic industry. The analysis undertaken without factoring the prevailing ADD shows that the exports from subject countries have continued to enter India at dumped prices. The dumping margin so determined against subject countries is above *de minimis* and significant.

f. Growth

73. Both the volume and profitability parameters of the domestic industry have witnessed growth over the injury period.

J. CONCLUSIONS ON INJURY

74. The Authority notes that the volume of imports from the subject countries has declined from base year to 2015-16, although during the POI (examined on the basis of annualized figures) the imports have increased as compared to the previous year i.e. 2015-16 but remained low as compared to base year. Share of imports from the subject countries in total imports of the PUC is not significant and also declining throughout the injury period. The volume has been low in absolute terms and in relation to production and consumption in India. Insofar as the price effect of imports is concerned, the imports have not suppressed or depressed the prices of the domestic industry. The price undercutting and the price underselling is positive for the domestic industry. It is further noted that various economic parameters relating the performance of the domestic industry, including production, sales, capacity utilization, market share, profits, cash profits and return on investment have been quite positive, whereas the profits, cash profits and return on investment of the industry have been at modest levels.

K. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING AND INJURY

Views of the domestic industry

75. The submissions made by the Domestic industry with regard to the likelihood of continuation or recurrence of dumping and injury are as follows:
- a. There is continued dumping of the subject goods, despite the imposition of anti-dumping duties.
 - b. The exporters in the subject countries have significant idle capacities, sufficient to meet the entire demand in India. In the event of expiry of duty, the exporters are likely to utilize these surplus capacities to flood the market in India.
 - c. If the duties were allowed to expire, the dumped imports would significantly increase, and the market share of the domestic industry would reduce.
 - d. The exporters in the subject countries are export oriented, having capacities far in excess of the domestic demand.
 - e. The exporters have not only been dumping in India, but also in other countries. Further, the subject goods have been supplied to third countries at prices below the non-injurious price. The dumping margin and injury margin in respect of countries other than India is far higher.
 - f. Since India is a price attractive market and unless the exporters show that they have any firm commitments in other markets, it must be concluded that the exporter would prefer to sell its goods in India.
 - g. It has been admitted by the participating producer that the prices charged thereby are influenced by the market conditions, and not cost of the product.
 - h. If the domestic industry is forced to meet the landed price of imports, it would suffer financial losses and negative return on capital employed.

- i. In the event of cessation of duty, the imports would enter the Indian market at injurious prices.
- j. The likelihood of injury has already been established in the findings of the Authority in the recently concluded mid-term review.
- k. In the event of expiry of the anti-dumping duty, the domestic industry would not be able to charge even break-even prices.
- l. If the duties cease, the cash profits of the petitioning domestic industry reduce and its return would be negative.
- m. Responding to arguments in this regard, it was submitted that there is no requirement for calling data for post period of investigation and adopting the same in every sunset review case, and the same may be necessary only when the dumping margin or injury margin is negative in the period of investigation.
- n. In reply to the allegation of the interested parties regarding veracity of export data provided by the domestic industry, it was requested that the Authority may undertake invoice-by-invoice determination of dumping margin and injury margin in respect of exports by Saudi Arabia and to co-relate the information filed by the domestic industry to the response of the exporters.
- o. Replying to the arguments of the opposing parties, the domestic industry submitted that when the imports from other countries have not caused any actual injury, there is no likelihood that they would cause injury to the domestic industry in the event of non-imposition of duties on these imports.
- p. The Authority has extended the duties in a number of cases, even if the domestic industry was not suffering injury during the relevant period. The legal requirement is that anti-dumping duty should be extended if there is evidence that dumping and consequent injury to the domestic industry is likely.

Views of the opposing interested parties

76. The submissions of the other interested parties, with regard to the likelihood of continuation or recurrence of dumping and injury are summarized hereunder:
- a. Post period of investigation data shows that import volume from Saudi Arabia have further declined and, thus, there is no likelihood of dumping.
 - b. The data provided by the petitioner is incorrect, and the data provided by the exporter would show that the export price to third country from Saudi Arabia is actually higher than the data provided in the petition.
 - c. No data for post period of investigation has been provided to determine the likelihood of continuation or recurrence of dumping and injury, which should be considered in a sunset review investigation.
 - d. Since the petitioners constitute only 25.06% of the domestic production, likelihood of recurrence of injury cannot be established on the basis of the information contained in the petition.
 - e. There is no likelihood of continuation of injury because there is no injury at present.

- f. Volume of imports non-subject countries is higher than the imports from Saudi Arabia. Likelihood of injury to the domestic industry, if any is to be attributed to imports from countries which are not attracting anti-dumping duty.
- g. The petitioner has failed to provide concrete evidence proving that the discontinuation of duty would lead to recurrence or continuation of dumping or injury. As provided in para (vii) of Annexure – II to the Anti-Dumping Rules, threat of material injury shall be based on facts, and not merely on allegation, conjecture or remote possibility.
- h. The petitioner has not provided any data based on existing surplus capacities, capacity addition and any data for post period of investigation. The past trends of capacities alone cannot be taken for likelihood analysis.
- i. Further, no evidence has been provided in respect of surplus capacities in USA. As regards Saudi Arabia, no fresh evidence has been provided and instead, the petitioner has relied upon the findings of the Authority in the mid-term review, which is four years old.
- j. The data for exports from subject countries has not been updated following the change in period of investigation at the time of initiation.
- k. Price attractiveness alone cannot be a reason for likelihood of injury in the present factual matrix.
- l. If the petitioner's prognosis on price attractiveness is to be accepted, there should have been a considerable increase in the exports from the subject countries to India, irrespective of whether duties are allowed to expire or not.
- m. The petitioner has not provided complete and verifiable evidence to establish the pricing behavior of the exporters in the subject countries.
- n. The petitioner has not provided any post period of investigation data with respect to price suppression or depression, or with regard to levels of inventories in the subject countries.
- o. Merely the fact that the dumping margin was positive in earlier investigations is not sufficient, and there should be explicit evidence of increase of dumped imports into India.
- p. DCW Limited reported in its annual report that the imports are not a threat and the company is in a position to face international competition.
- q. Responding to the claim of the domestic industry that there is a history of continued dumping, it was argued that the claim was incorrect inasmuch as the dumping margin determined for SADAF and STME in the second sunset review was negative. In any case, there is no presumption of dumping in a sunset review based on historical assessment.
- r. The claim of the domestic industry that there is dumping in third countries is without any basis as there are no anti-dumping investigations against Saudi Arabia in any other country.
- s. Similarly, the claim of the domestic industry regarding excess capacities to the extent of 35% with the producers in Saudi Arabia is factually incorrect.
- t. The volume of imports from Saudi Arabia is miniscule to trigger any kind of price suppression or depression.

Examination by the Authority

77. The Authority has examined the contention of the Domestic Industry to examine likelihood of continuation or recurrence of dumping and injury, in terms of Annexure II (vii) of the Rules. Clause (vii) of Annexure II to the rules provides, inter alia for four factors which are required to be taken into consideration, viz.:
- 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 markets, 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 imports; and
 - d. Inventories of the article being investigated.
78. All factors brought to the notice of the Authority have been examined to determine as to whether there is a likelihood of continuation or recurrence of dumping or injury in the event of cessation of the duty. Since in the present case, the domestic industry has witnessed a growth in its economic parameters, it is more relevant to determine whether injury to the domestic industry is likely to recur on account of dumping, if the duties cease to be in force. The Authority has considered various information, as made available by the domestic industry and other interested parties, in order to evaluate the likelihood of continuation or recurrence of dumping or injury. The post POI was examined and found that during the six months of post POI there are no imports from the subject countries.
79. The examination of the parameters of likelihood is as follows:

i. Excess surplus capacities and export orientation of producers in subject countries

a. Saudi Arabia

80. The Authority notes that in case of Saudi Arabia, the sole producer, namely SADAF has large capacities whereas domestic demand is less than 50% of the installed capacity, as detailed below:

| Particulars | Quantity (MT) |
|-----------------|---------------|
| Capacity | *** |
| Domestic sales | *** |
| Exports | *** |
| Excess capacity | *** |

b. USA

81. As regards USA, the petitioner has submitted information and the evidence on record shows that the exporters in USA have a nameplate capacity of 46,600 DST per day and are unable to fully utilize their capacities, having idle capacities to the tune of 15-25%. Further, USA producers exported 7.43 million MT caustic soda to various countries globally in the period of investigation. It is clear that the producers in the subject countries have huge freely disposable capacities.

ii. Third Country Exports – Volume & Value

82. The data relating to exports from the subject countries to countries other than India, as submitted by the petitioner, shows that the exporters in the subject countries are exporting the product in other countries at a price below respective normal value.

a. Saudi Arabia

83. On an analysis of third country exports from Saudi Arabia, it is found that apart from India, there are significant exports to major markets such as Greece, Italy, Bahrain, Turkey and Thailand to the extent of 64,935 MT, out of which quantity of 64,743 MT have been made at prices much below the normal value. In fact, 99.71% of the total exports to countries other than India, have been made at dumped prices.

| Particulars | Quantity (MT) | Landed price per MT | Export price per MT |
|-------------|---------------|---------------------|---------------------|
| Greece | 21,862 | *** | 171 |
| Italy | 13,167 | *** | 175 |
| Bahrain | 16,775 | *** | 213 |
| India | 32,097 | *** | 263 |

b. USA

84. For the exporters in USA, the major markets are Brazil, Australia and Mexico besides many other countries amounting to 7,424,752 MT out of which quantity of 7,413,031 MT have been made at prices much below the export price to India. The 99.84% of the exports to countries other than India have been made at dumped prices.

| Particulars | Quantity (MT) | Landed price per MT | Export price per MT |
|-------------|---------------|---------------------|---------------------|
| Brazil | 2,913,857 | *** | *** |
| Australia | 1,202,571 | *** | *** |
| Mexico | 562,884 | *** | *** |
| India | 16,968 | *** | *** |

iii. Level of current and past dumping margin

85. The level of dumping margin in the earlier investigations has been positive, and continues to be so in the present investigation.

L. CAUSAL LINK

86. Under Section 9A (5) of the Act, the Authority is required to examine the likelihood of dumping and injury and the need for continuation of duties. Further, the Authority has examined whether other listed known factors are likely to cause injury to the domestic industry.
- a. Imports from third countries – While significant volumes of the subject goods have been imported from other countries such as Japan, Indonesia, Iran and Qatar, the price of such imports is much higher than that from the subject countries. The domestic industry has not suffered injury in the present period.
 - b. Trend in demand – The demand for the subject goods has been steadily increasing over the injury period. Contraction in demand is not a possible reason causing injury to the domestic industry.
 - c. Performance of other products – For the purpose of injury analysis, the data relating to production, sales volume, selling price, cost, profits, etc. has been segregated and the analysis has been done with respect to the product under consideration only.
 - d. Changes in pattern of consumption – The pattern of consumption with regard to the product under consideration has not undergone any change over the period, and there is nothing on record to suggest that it is likely to change. Thus, any change in pattern of consumption is unlikely to contribute to the injury to the domestic industry.
 - e. Trade restrictive practices of and competition between the foreign and domestic producers – There are no trade restrictive practices which may contribute to the injury to the domestic industry.
 - f. Developments in technology - It is noted that the technology for production of the product has neither undergone any material change, nor does it appear to be likely to undergo a change. Developments in technology, therefore, do not appear to be a possible factor of injury.
 - g. Export performance – The Authority has segregated export performance at appropriate places, and thus, the analysis of likelihood has been done considering only the domestic performance of the domestic industry.
 - h. Productivity – As the productivity of the domestic industry has increased, it is unlikely that it may suffer injury on account of declining productivity.

M. POST DISCLOSURE COMMENTS

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

Submissions by Domestic Industry

88. The Domestic Industry made the following submissions:

- a. The detailed calculation of non-injurious price has not been disclosed, specifically the basis on which it has been determined that the domestic industry has utilized resources inefficiently so as to warrant consideration of best utilization thereof.
- b. The actual normal value, export price and dumping margin should be disclosed to the domestic industry. This is because the normal value has been constructed on the cost of the petitioning domestic industry, while the export price has been determined on the basis of DGCI&S data. Therefore, the calculations cannot be treated as confidential qua the domestic industry.
- c. The manner in which return has been calculated, including the manner in which capital employed has been computed may kindly be disclosed. Further, the manner in which the transfer price of captive power has been determined may kindly be shared with the domestic industry.
- d. There is continued and incessant dumping of the subject goods from the subject country, which clearly bring to light the pricing behaviour of the exporters in the subject countries. The producers in both the countries have sufficient freely disposable capacities, which can be utilized to meet the demand in India in the event of expiry of duties. More than 99% of the exports to other countries have also been made at dumped prices. Therefore, if the duties lapse, the imports into India from the subject countries are highly likely to increase.
- e. The volume of imports declined as a result of anti-dumping duties, the subject imports nevertheless continue to undercut the prices of the domestic industry. This implies that if the anti-dumping duties are not continued, the domestic industry would be forced to meet the landed price of imports, which would mean financial losses and negative return on capital employed.
- f. If the duties are removed, the imports would undersell the prices of the petitioning domestic industry and would not allow it to charge remunerative prices. Even at present, the petitioning domestic industry has earned inadequate return on capital employed. Any deterioration in return on investment from the present situation would mean injury.
- g. the only reason that the domestic industry has not suffered injury is that the anti-dumping duties in force kept a check on the volume of imports and afforded protection to the domestic industry

- h. The imports from Saudi Arabia reduced only because the agreement between STME, SABIC and SADAF came to an end in August, 2017 and the goods could no longer be exported through STME. Since it was not viable to export the goods through SADAF, the imports ceased post the expiry of the agreement. However, if the anti-dumping duty is removed, the exporter SADAF would not hesitate in resuming the dumping of the subject goods in India.
- i. The normal value should be constructed on the basis of the average cost for the domestic industry.
- j. There is high likelihood of continued dumping and recurrence of injury to the domestic industry in the event of expiry of duties. Even with the duties in force, the domestic industry has not been able to earn adequate returns. If the duties are removed, the situation of the domestic industry would only deteriorate.
- k. There is no requirement of causal link in a sunset review investigation. Once it has been established that cessation of duties is likely to cause recurrence or continuation of dumping and injury to the domestic industry, there is no requirement to establish the existence of a causal link between the likely dumping and likely injury.
- l. The Authority has considered the lowest utilization of raw materials, utilities and production capacities over the period of investigation and preceding three years for determination of NIP, under a presumption that the difference is inefficient utilization of the resources. Such an approach is in violation of provisions of paragraph 3 of Annexure III to the AD Rules. The Authority must first consider, in terms of paragraph 3, the non-injurious price on the cost of production of the domestic industry for the POI. The “best utilization” method, in terms of paragraph 4 of Annexure III of AD Rules, may be resorted to only when there is a need to nullify any injury caused to the domestic industry by inefficient utilization of such resources. However, where there is no inefficient utilization of resources, consideration of lowest utilization is not justified and Authority must proceed on the basis of paragraph 3 of Annexure III of the AD Rules. In the present case, the raw material is salt which is a natural product and its chemical composition is not fixed. Because of this, the consumption of raw material varies over the period. However, the same is not owing to any inefficiency of utilization of the raw material;
- m. Even if the non-injurious price is calculated by the methodology explained in the Disclosure Statement and as is understood to be applied is followed, the non-injurious price disclosed is much lower than that so calculated. This clearly indicates that certain adjustments or reductions have been made or claims of domestic industry have been rejected beyond what is provided for in Annexure – III. Such an approach is clearly not tenable inasmuch as the Designated Authority has gone over and beyond that is provided in Annexure – III to calculate a much understated non-injurious price and injury margin.
- n. It is submitted that in the present case, fixed quantum (fixed form of duty), expressed in US\$/MT, would be most appropriate.

Submissions by opposing interested parties:

89. The opposing interested parties made the following submissions:
- a. It is unclear whether the Authority considers that Rule 5 applies to Sunset Review Investigations or not. Rule 5 of the AD Rules is applicable in the present scenario.
 - b. The Petitioners do not possess requisite standing for the initiation and conduct of the present review investigation. 25% of total Indian production is not sufficient and cannot be considered “major proportion”. Any assessment of injury based on information from merely a quarter of the Indian domestic producers would be insufficient to make a reasonable injury determination.
 - c. It appears that about 75% of the Indian domestic producers are either uninterested in the ongoing investigation or are so placed that their data would undermine the application made by the petitioners. Another alternative possible is that the data of these “supporters” would lead to the construction of a significantly lower NIP and therefore, be counter productive to the cause propagated by the Petitioners.
 - d. The Petitioners have “chosen” only those producers whose data shows some level of injury and / or leads to the construction of a very high non-injurious price. NIP has been constructed on the basis of merely 25% of the Indian producers and therefore, the NIP constructed is highly exaggerated and is not reflective of the NIP of the Indian producers at large.
 - e. Even after excluding GACL’s production from the total Indian production, the Petitioner’s do not have sufficient standing to be eligible industry.
 - f. The Designated Authority had data only with respect to a portion of the POI – i.e. for April 2016 to March 2017 (which is the overlap over the proposed POI and the designated POI).
 - g. The Authority has incorrectly assessed the Normal Value for Saudi Arabia and therefore, has incorrectly assessed the Dumping Margin with respect to the same. The exports from Saudi Arabia occurred only for a period of 3 months (April to June, 2016) out of the 15 month long Period of Investigation and therefore, the Normal Value should have been constructed based on data for that period alone. The Authority’s determination of the Normal Value based on the POI data rather than the data for the April-June, 2016 period is not in accordance with paragraph 6 of Annexure I of the Anti-dumping Rules. No justification has been provided as to how comparison of normal value over a period of 15 months with export price for a 3-month period can be considered “fair” in line with the provisions of the AD Rules.
 - i. Authority’s understanding is incorrect that such consideration of normal value on a month wise basis has not been undertaken in any previous investigation despite the fact that the imports were not present throughout the POI. The same has been done in other investigations such as Phenol from Japan and Thailand as well as Phenol from EU, South Africa and Singapore. It was also held as the

appropriate practice by the hon'bl CESTAT in Oxo Alcohols Industries Association v. Designated Authority;

- h. In the POI under consideration, the trade channel involved in the exports to India is the same trade channel that was subject to a negative dumping margin. Thus, any presumption should be in favour of such an exporter who has received a negative dumping margin in the previous sunset review investigation.
- i. Authority has also claimed that the participating producer did not claim a separate cost of production of the subject goods of the POI. The Authority is not considering the data supplied by the participating producers herein and therefore, the presence or absence of quarterly break down of the cost of production with respect to the same is not under consideration at all.
- j. The Authority's basis for examination is incorrect in so far as the request for fair comparison of normal value is rejected on the grounds that the producer/exporter from Saudi Arabia did not provide quarterly break down of cost of production. This is so because the Authority has already rejected the producer / exporter's response and therefore, the normal value construction is not based on the same, in any case. Data from the Petitioners, on the basis of which normal value is said to have been constructed should have been sought from the said Petitioners or alternatively the month-wise data from IHS Chemicals is available on the public record and should have been considered;
- k. The IHS data clearly shows that the global selling price of the subject goods increased substantially over the POI, almost doubling by the end of the period. Thus, consideration of normal value on the basis of the entire POI is extremely prejudicial to the producer / exporter from Saudi Arabia;
- l. The Authority's claim that such quarterly or monthly assessment was not done in past cases even though there were instances where imports were not present throughout the POI.
- m. There is no injury being suffered by the Petitioners during the period of investigation. There is no continued injury to the petitioners in the present case, and the assessment by the Authority should relate solely to the examination of the likelihood of recurrence of dumping and injury to the domestic industry.
- n. the Authority has casually referred to the examination of the subject imports with a view to determining whether there is a likelihood of recurrence of "dumping or injury". The failure to establish either the likelihood of recurrence of dumping or the likelihood of recurrence of injury means that the Authority cannot proceed to recommend the continuation of the anti-dumping duties in force. Accordingly, we request the Authority to record the appropriate legal mandate using the word "and" rather than "or".
- o. The Authority has also recorded contrary facts pertaining to the Petitioners' profits, profit before interest, cash profits and return on investment.
- p. The Authority has incorrectly assessed the non-injurious price (NIP) for the domestic industry and the same is overstated.
- q. the NIP in the present case has been willfully exaggerated by the exclusion of data of supporting producers. The Petitioners have been cherry picked to include

only those producers who treat chlorine as by-product since depending on the treatment of chlorine as by product or joint product, the NIP varies substantially. The Petitioners in the present case treat Chlorine as a by-product, such treatment inflates the NIP of the Petitioners. While, in the case of other producers in India, the fixed costs of production are divided between caustic soda and chlorine, where chlorine is treated as a joint-product rather than a by-product.

- r. The Authority has presumed that the lack of injury may be an outcome of the anti-dumping duties in force against the subject goods. However, such a presumption is not reflected by the facts on record and fails to consider that the majority of the duties in force have been revoked and the petitioners' performance has shown no decline despite such duty revocation. The anti-dumping duty is now withdrawn against 9 out of these 13 countries and is currently in force against only 4 countries including Saudi Arabia. Despite the revocation of duties from as many as 9 sources, the performance of the Petitioners has remained positive and their growth is also significant. Therefore, the continued imposition of duties qua Saudi Arabia is not meaningful.
- s. The landed value has been considered by including the quantum of ADD in force. The price undercutting and price underselling when considered including the amount of ADD, would be negative
- t. The Petitioners' economic parameters are improving and show significant growth. It is evident that there is no situation of "continued injury".
- u. The burden of proof to establish likelihood of continuation or recurrence of dumping lies with the domestic industry and cannot be shifted on to the exporters. No verifiable or sufficient positive evidence has been provided by the petitioner in this regard. The determination of likelihood of dumping and injury upon expiration of anti-dumping duties is dependent on the analysis of the prospective rate of increase of dumped imports, freely disposable or increase in existing capacity in the subject countries, price suppression/depression, and inventories along with other relevant criteria. In light of the missing data and submissions made hereinabove, the Petitioner has failed to conclusively prove a likelihood of recurrence or continuation of dumping of the Subject Country imports.
- v. An assessment of likelihood parameters as per paragraph (vii) of Annexure II of the AD Rules, to the extent possible, shows that these parameters are not satisfied for a conclusion of "likelihood of recurrence of dumping and injury". The Petitioner has failed to provide any sufficient verifiable evidence and information, its claims regarding the likelihood of injury due to existing capacities or capacity addition should be completely disregarded.
- w. The post-POI period shows that exports from Saudi Arabia have been NIL and therefore, it is evident that the "likelihood" claim is bound to fail. Thus, based on this parameter, there is no likelihood of recurrence of dumping and injury to the domestic industry.

- x. There is absence of continued injury as there is no injury suffered by the Petitioner with respect to its critical economic parameters during the POI, and no post POI data has been provided by the Petitioner.
- y. The capacities of the producer are suitable for its own domestic market and the global exports it caters to. The data of the sole producer shows that it has substantial sales in its domestic market along with substantial sales in third country export markets. In fact, in the POI more than 90% of the sales of the Respondents were made either in the domestic market of Saudi Arabia or in third country export market. Only a marginal percentage of the subject goods was sold to India and / or held as inventory. In such a situation, the producer has no idle capacity which may be read as excess or surplus.
- z. "Excess capacity" does not refer to any capacity over and above the domestic demand in Saudi Arabia. Rather, it refers to idle capacities that may be engaged, in the future, for production and sale of subject goods to the Indian markets at dumped prices. In the present case, it is evident that the producer do not hold any such capacity and the capacity utilization of the Respondents is more than 90% and even the sales of the Respondents are quite high.
 - aa. The imports from Saudi Arabia are not entering India at prices that have a significant depressing or suppressing effect and neither is there any likelihood that such imports would, in the future, enter India at such suppressive or depressive prices.
 - bb. The inventories held by the producer herein are miniscule and gradually reducing over the years upto the POI.
 - cc. Reliance has been placed on the data provided by the Petitioners with respect to the producer's sales to third country markets. The sales volume to third countries is as little as 64,935 MT, the sales volume reported by the producer herein is about 4-5 times that much. Therefore, there is inconsistency in the data on record.
 - dd. There is no anti-dumping investigation on caustic soda from Saudi Arabia by any other country. The data provided in Annexure 4.3 of the Petition regarding export price to third countries to support claim concerning dumping in third countries is incorrect and unreliable.
 - ee. Based on the data available with the producer regarding actual landed value in India, the NIP of the domestic producers would be about 15% higher than the actual landed value. The NIP of the Petitioners is lower than the export prices from Saudi Arabia to third country markets.
 - ff. The scope of a sunset review is limited to arriving at a conclusion on whether there is a likelihood of recurrence or continuation of dumping and injury and nothing more. In a sunset review, the Authority has no legal right whatsoever to vary or modify the duty. In view of the foregoing submissions that case the Authority decides to extend the anti-dumping duty with respect to the subject goods, then the quantum of anti-dumping duty should not be increased but maintained at the level that is currently in force.

- gg. Price attractiveness cannot be considered as a reason for likelihood of injury in the present factual matrix. The difference in price between Saudi Arabia/USA's exports to the third countries, and India is very significant due to which the presence or absence of the anti-dumping duty would have no effect.
- hh. The Authority should take into account such non-attribution factors and record a specific finding that any slight injury suffered by the domestic industry in the present investigation is on account of the non-attributive factors alone. The Petitioning companies have identified in their Annual Reports the reasons for their alleged injury which are not inclusive of the imports from subject countries.
- i. DCW, reported vide its Annual Report of 2016-17 that the imports are not a threat and the company is capable of facing international competition.
 - ii. DCW vide its Annual Report for the year 2016-17 stated that the fall in turnover for the Caustic Soda Division was on account of water shortage in its Tamil Nadu plant as well as labour issues in the Sahupuram unit which lead to a plant shutdown.
 - iii. Grasim, vide its Annual Report 2016-17 clearly mentioned demonetisation as a reason for injury suffered by its Caustic division.
 - iv. SIEL's Annual Report for 2016-17 states that the user industry has experienced a shortage in the Caustic Soda supply due to the decline in imports.
 - v. SIEL via the Mawana Sugars Ltd, Annual Report 2016-17 highlighted high raw material cost as a reason for the injury suffered by it
- ii. The Importer has sent repeated requests to various domestic producers including the Petitioning companies for procuring Caustic Soda and in this regard, published an Expression of Interest ("EOI") requesting 120,000 DMT of caustic soda lye vide all editions of Economic times on March 11, 2016. wherein the repeated requests of the Importer to various domestic producers have not received favourable responses.
- jj. The transportation of caustic soda from the west coast to the east coast of India causes unnecessary hardships and increase in the cost of raw materials to the alumina manufacturers. This increase in transportation cost for the user industry would result in an increase in demand of caustic soda from other countries that have a lower cost of transportation along with supply of voluminous quantity leading to lower cost of raw materials (caustic soda) for the alumina industry. This coupled with fact that there is shortage of supply of Caustic Soda, results in an increase in demand from all viable sources which includes the subject imports.
- kk. The Authority cannot recommend the imposition of a higher duty in a sunset review, rather, the investigation is concerned only with the scope of extension

or cessation of the period of extension. This position of law emerges from a comparative reading of the provisions pertaining to mid-term review and sunset review. Where MTR speaks of varying or modifying the duty, the SSR provision allows the Authority to “extend the period of such imposition”. Cited Grinding Media Balls from China and Thailand which has recently upheld this stance. EU regulation was also cited.

Examination of the Authority

90. The Authority notes that most of the submissions by parties are repetitive in nature and were already addressed earlier in the disclosure statement. To the extent fresh claims have been raised and considered relevant, the specific issues have been dealt with in appropriate places in the findings above. Further, the Authority has examined submissions of interested parties herein below to the extent relevant and not addressed elsewhere.
91. With respect to the Domestic Industry’s claim pertaining to NIP, it is noted that the same has been considered as per Annexure III of the AD Rules. Annexure III of the Anti-dumping Rules codifies the procedure for the determination of NIP. It provides for consideration of best utilization of raw materials over the past three years period and the POI. The Authority cannot exercise discretion and act contrary to the prescribed rules, merely because Domestic Industry claims that application of rules is inappropriate in the present case. The specific issue relating to disclosure of NIP workings has already been dealt with by directly communicating the details to DI. Further, with regards to exporter’s contention regarding wilful exaggeration of NIP working of DI, it is noted that the allegation is baseless and the NIP has been worked out on the basis of detailed verified information given by the petitioner companies of the applicant Association, who are considered eligible as per Rule 2(b) and 5(3) of the AD Rules.
92. With respect to the claim that there is no need to establish causal link in a sunset review investigation, the Authority disagrees. The provisions of the AD Rules are unambiguous that even in a sunset review, the Authority is required to consider the “likelihood of continuation or recurrence of dumping and injury to the domestic industry”. Thus, establishing dumping and injury goes hand in hand, and the requirements of causation are central to this language. Moreover, the object and purpose of anti-dumping laws are abundantly clear that it is only injury caused by dumping, an unfair trade practice, which may be addressed through the use of the anti-dumping mechanism.
93. With respect to the claim of the Domestic Industry regarding the dumping margin being low due to consideration of the data of the most efficient domestic producer while assessing the normal value, the Authority notes that the normal value and accordingly, the dumping margin has been considered as per the past, consistent practice of the Authority.

94. With respect to the claim of the interested party that initiation of sunset review is not mandatory simply because an application is presented by the Domestic Industry, the Authority is well aware of this position. The initiation in the present case was undertaken only after an assessment of the facts and record of the Petition and consistent with past practice of the Authority. Upon being prima facies satisfied, for the purposes of initiation, regarding the claims made by the DI, the Authority had issued the initiation notification. Thereafter the POI was updated to include the most recent period for which information is available. No investigation was initiated with respect to Iran and Japan in view of lack of sufficient evidence of dumping and injury against them.
95. The inconsistencies pointed out by the interested party were inadvertent errors and have been addressed in the present Findings.
96. The Authority has also noted that even after the revocation of duties from other countries in recent past, the performance of the domestic industry has remained positive and their growth is also significant. Therefore, the continued imposition of duties qua Saudi Arabia and USA is not meaningful. Further the share of imports of Saudi Arabia and USA is very miniscule in total imports.
97. Authority also notes that there is no likelihood of recurrence of dumping and injury to the domestic industry from the subject countries due to the following reasons:
 - a. The share of imports from subject countries in relation to production and consumption in India is almost negligible and also declining. The imports from other countries are significant and also increasing consistently.
 - b. The data on record does not show any price suppression or depression on account of dumped imports from subject countries.
 - c. It is seen that the capacity, production and sales of the domestic industry have increased over the injury period. Further the profit, PBIT, cash profits and ROI has increased positively and showing significant improvement in the economic parameters of domestic industry.
 - d. The Net Sales Realisation achieved by the DI for the subject goods continues to be consistently higher than the landed value of the imports of the subject goods over the injury period and the POI. The Return on investment, profit and profit before interests has increased throughout the injury period and the POI. Thus the trend in price parameters do not conclusively establish that adverse impact on DI's parameters has been caused by dumped imports. The factors such as plant shutdown, Demonetisation, high raw material cost may be impacting the DI for injury, if any.
 - e. There is no capacity expansion by sole producer from Saudi Arabia and the capacity utilisation of participating producer is more than 90% for sales in its domestic market and third country markets. Therefore, there is no idle capacity available with the producer which poses a threat for the domestic industry.
 - f. Additionally, in respect of the claim of surplus capacities, it is important to note that that mere existence of surplus capacities is not sufficient to establish likelihood of recurrence of injury.

N. CONCLUSIONS

98. Having regard to the submissions made over the course of this investigation by all the interested parties, the Authority, on the basis of the above facts, circumstances, and analysis, concludes as under:

- a. There is steady decline in the volume of imports from the subject countries in absolute and relative terms. The share of imports from subject countries in relation to production and consumption in India is almost negligible and also declining.
- b. There is no price suppression / depression in the present case. Further, the undercutting is low and insignificant;
- c. The Authority notes that the anti-dumping duties with respect to the subject goods were in force on many other countries as well. However, the Authority has revoked those duties and there is minimal impact of such revocations on the domestic industry as domestic industry has continued to perform well despite revocation of anti-dumping duties in force;
- d. The financial and economic parameters of Domestic Industry (both volume and price) are stable and not evidencing deterioration or likelihood of deterioration requiring continuation of Anti-dumping Duty.
- e. The link between the alleged dumped imports and the injury to the DI cannot be established as the economic parameters of the DI during the injury period and the POI demonstrates that there is no adverse impact on the health of the DI due to the alleged dumped imports, infact the DI is able to sell the subject goods and is able to achieve higher net sales realisation than the landed value of the subject goods during the entire injury period and the POI. However, factors such as plant shutdown, Demonetisation, high raw material cost may be potential enough to effect the health of the DI.
- f. The Authority also holds that capacity utilisation, production, sales and overall profitability of the industry do not indicate existence of injury or a likelihood of injury.
- g. The factors examined by the Authority w.r.t. likelihood analysis do not establish that there is injury to domestic industry.

99. The Authority is also cognizant of the fact that the anti-dumping duty has been in force against Saudi Arabia and USA since December, 2000 and has been in force for almost 18 years. In this time, the domestic industry has grown significantly and performed well, the imports have declined and overall, it is noted that the anti-dumping duty has served its intended purpose.

O. RECOMMENDATIONS

100. After examining the submissions made and issues raised, and considering the facts available on record, the Authority concludes that though the product under consideration

has been exported to India from the subject countries below the normal value, it can be seen that the overall health of the domestic industry has improved. The domestic industry has withstood the increased imports from other countries, which were previously subjected to anti-dumping duties and has performed positively despite the same. The information on record does not show any likelihood of recurrence of injury to the domestic industry in the event of revocation of duty from the subject countries.

101. Therefore, the Authority does not recommend continuation of the anti-dumping duty on the imports of subject goods from the subject countries and hereby recommends discontinuance of the ADD levied on the PUC vide Customs Notification No. 55/2017 – Customs (ADD) dated 24 November, 2017.
102. An appeal against this order shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act.

(Sunil Kumar)
Additional Secretary and Director General