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**F. No.6/39/2019-DGTR
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**

Dated 19th January, 2021

FINAL FINDING

Case No. (OI - 30/2019)

Subject: Anti-Dumping Duty investigation concerning imports of Soda Ash originating in or exported from Turkey and USA

A. BACKGROUND OF THE CASE

No. 6/39/2019 -DGTR: Having regard to the Customs Tariff Act, 1975, as amended from time to time (hereinafter also referred to as the Act), and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended from time to time, (hereinafter also referred to as “the Rules” or “the AD Rules”) thereof:

Whereas, M/s DCW Ltd., M/s RSPL and M/s GHCL (hereinafter also referred to as “the Applicants” or “the Domestic Industry”) have filed an application before the Designated Authority (hereinafter also referred to as “the Authority”) in accordance with the Customs Tariff Act and the AD Rules for imposition of Anti-dumping duty on imports of “Soda Ash” (hereinafter also referred to as “subject goods” or “product under consideration” or “PUC”) originating in or exported from Turkey and USA (hereinafter also referred to as the “subject countries”).

And, whereas, the Authority, on the basis of sufficient evidence submitted by the Applicant, issued a public notice vide Notification No. 6/39/2019 - DGTR dated 22nd January, 2020, published in the Gazette of India, initiating the subject investigation in accordance with the AD Rules to determine existence, degree and effect of the alleged dumping of the subject goods, originating in or exported from the subject countries, and to recommend the amount of anti-dumping duty, which if levied, would be adequate to remove the alleged injury to the Domestic Industry.

B. PROCEDURE

1. The procedure described herein below has been followed by the Authority with regard to the subject investigation:

- a) The Authority notified the Embassies of the Subject Countries in India about the receipt of the present anti-dumping application before proceeding to initiate the investigation in accordance with Sub-Rule (5) of Rule 5 supra.
- b) The Authority issued a public notice dated 22nd January 2020 published in the Gazette of India Extraordinary, initiating anti-dumping investigation concerning imports of the subject goods from subject countries.
- c) The Authority sent a copy of the initiation notification to the Embassies of the subject countries in India, known producers/exporters from the subject countries, known importers/users and the Domestic Industry as well as other domestic producers as per the addresses made available by the Applicant and requested them to make their views known in writing within the prescribed time limit.
- d) The Authority provided a copy of the non-confidential version of the application to the known producers/exporters and to the Embassies of the subject countries in India in accordance with Rule 6(3) of the Rules supra.
- e) The Embassies of the subject countries in India were also requested to advise the exporters/producers from their countries to respond to the questionnaire within the prescribed time limit. A copy of the letter and questionnaire sent to the producers/ exporters was also sent to them along with the names and addresses of the known producers/exporters from the subject countries.
- f) The Authority sent questionnaires to the following known producers/exporters in the subject countries in accordance with Rule 6(4) of the AD Rules:

- i. M/s FMC Industrial Chemicals
- ii. M/s Solvay Soda Ash
- iii. M/s General Chemicals Industrial Products
- iv. M/s ANSAC
- v. M/s FMC Corporation
- vi. M/s Ciner Resources LP
- vii. M/s Ciner Wyoming LLC
- viii. M/s Ciner Resources Corporation
- ix. M/s Eti Soda
- x. M/s Soda Sanayii
- xi. M/s Kazan Soda Electric

- g) Following exporters have filed questionnaire response from the subject countries:

- i. Searles Valley Minerals Inc., USA
- ii. M/s Tata Chemicals Soda Ash Partners ("TCSAP"), Producer, USA
- iii. M/s Tata Chemicals International Pte. Ltd. ("TCIPL"), USA along with its related importer M/s Tata Chemicals Ltd. ("TCL")
- iv. ETI Soda Uretim Pazarlama Nakliyat Ve Elektrik Uretim Sanayi Ve Ticaret A.S., Turkey
- v. Kazan Soda Elektrik Uretim A.S, Turkey
- vi. Ciner IC Ve Dis Ticaret A.S. (CIDT), Turkey
- vii. Türkiye Şişe ve Cam Fabrikaları Anonim Şirketi (formerly Soda Sanayii A.S.) Turkey and its related exporter Sisecam Dis Ticaret A.S.

h) The Authority sent Importer's Questionnaire to the following known importers/users of subject goods in India calling for necessary information in accordance with Rule 6(4) of the Rules:

- i. M/s Gujarat Guardian Ltd.
- ii. M/s Advance Surfactant India Ltd.
- iii. M/s Float Glass India Ltd.
- iv. M/s A.R. Stanchem Pvt. Ltd.
- v. M/s Alenbic Glass Industries Ltd.
- vi. M/s Hind Silicates Pvt. Ltd.
- vii. M/s Deepak Nitrite Ltd.
- viii. M/s Taurus Chemical (P) Ltd.
- ix. M/s Hindustan National Glass & ind. Ltd.
- x. M/s Kishoresons Detergents Pvt. Ltd.
- xi. M/s Hindustan Unilever Ltd.
- xii. M/s J.J. Patel Industries
- xiii. M/s Procter & Gamble Hygiene & Healthcare
- xiv. M/s Shriram Bharath Chemical & Detergents Pvt. Ltd.
- xv. M/s Albright Morarji & Pandit Ltd.
- xvi. M/s Modern Glass Industries
- xvii. M/s Advatech Industries Pvt. Ltd.
- xviii. M/s Adarsh Kanch Udyog (P) Ltd.
- xix. U.P. Glass Manufacture Syndicate
- xx. M/s Paragati Glass Pvt. Ltd.
- xxi. M/s Asahi India Glass Limited
- xxii. M/s Gora Malhari Ram Ltd.
- xxiii. M/s Fena (P) Ltd.
- xxiv. M/s Rohit Surfactants (P) Ltd.
- xxv. M/s Shree Unicon Organics P. Ltd.
- xxvi. M/s Astral Glass Pvt. Ltd.
- xxvii. M/s Pollachi Chamber of Commerce and Industry
- xxviii. M/s BDJ Glass Industries Pvt. Ltd.
- xxix. M/s Vasunhara Rasayan Ltd.
- xxx. M/s Shri Hari Industries
- xxxi. M/s Power Soap Ltd.
- xxxii. M/s Hindustan National Glass & Industries
- xxxiii. M/s Shanti Nath Detergents (P) Ltd.
- xxxiv. M/s Jagatjit Industries Ltd.
- xxxv. M/s Advance Home & Personal Care
- xxxvi. M/s S. Kumar Detergents P. Ltd.
- xxxvii. M/s Mauli Exports

i) The Authority also informed the following Associations in India, in accordance with Rule 6(4) of the Rules:

- i. Detergent Manufacturers Association
- ii. Indian Chemical Merchants & Manufacturers
- iii. Bulk Drug Manufacturers Association (India)
- iv. Indian Glass Manufacturers' Association

- v. The Dyes & Chemical Merchants Association
 - vi. The Federation of All India Dyes & Chemicals Merchants Association
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- j) The Authority, upon request, granted extension, to file Questionnaire Responses by 20.03.2020.
 - k) Following imports/users have filed questionnaire responses:
 - i. M/s Saint Gobain India Pvt. Limited
 - ii. M/s Hindustan Unilever Ltd. India
 - iii. M/s Tata Chemicals Ltd.
 - l) The Authority made available non-confidential version of the evidence presented / submissions made in the form of a public file kept open for inspection by the interested parties.
 - m) Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to provide the transaction-wise details of imports of subject goods for the past three years, and the period of investigation, which was received by the Authority. The Authority has, relied upon the DGCI&S data for computation of the volume of imports and its analysis after due examination of the transactions.
 - n) The Non-Injurious Price (NIP) has been determined based on the cost of production and cost to make & sell the subject goods in India based on the information furnished by the Domestic Industry on the basis of Generally Accepted Accounting Principles (GAAP) and Annexure III to the Anti-Dumping Rules so as to ascertain whether Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to the Domestic Industry.
 - o) Verification of the information provided by Applicant Domestic Industry by way of table study, to the extent deemed necessary, was carried out by the Authority. Only such verified information with necessary rectification, wherever applicable, has been relied upon for the purpose of final findings.
 - p) The Period of Investigation for the purpose of the present investigation is from 1st April, 2019 to 31st December, 2019 (9 Months). The injury investigation period has however, been considered as the period from April 2016 - March 2017, April 2017 - March 2018, April 2017 - March 2018, and the POI.
 - q) In terms of provision contained in Rule 12 of the Rules, the Authority issued Preliminary findings dated 21.08.2020 published in the Gazette of India Extraordinary, and recommended imposition of provisional anti-dumping duty. The recommendation was, however, not accepted by the Central Government.
 - r) In accordance with Rule 6(6) of the Rules, the Authority provided opportunity to all interested parties to present their views orally in the oral hearing held on 16th November, 2020 which was attended by domestic Industry along with their legal representatives and by other interested parties and their legal representatives. Those who attended oral hearing were requested to file written submissions of the views presented in the oral hearing by 23.11.2020 and rejoinder submissions by 02.12.2020
 - s) The submissions made by the interested parties during the course of this investigation, to the extent supported with evidence and considered relevant to the present investigation, have been appropriately considered by the Authority, in this final finding.

- t) Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.
- u) Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has considered such parties as non-cooperative and recorded the final findings on the basis of the facts available.
- v) In accordance with Rule 16 of the Rules, the essential facts of the investigation were disclosed to the known interested parties vide Disclosure Statement dated 9th January, 2021 and comments received thereon, considered relevant by the Authority, have been addressed in these final findings. The Authority notes that most of the post disclosure submissions made by the interested parties are mere reiteration of their earlier submissions. However, the post disclosure submissions to the extent considered relevant are being examined in these Final Findings
- w) '****' in this final finding represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
- x) The exchange rate adopted by the Authority for the subject investigation is US\$1 = ₹71.24.

C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

C.1. Submissions made by the Domestic Industry

- 2. The submissions made by the Domestic Industry with regard to product under consideration and like article and considered relevant by the Authority are as follows:
 - a) The product under consideration is Disodium Carbonate, popularly known as Soda Ash, having chemical formula Na_2CO_3 . Soda Ash is a white, crystalline, water-soluble material. It has been referred as "soda Ash" in this petition. Soda Ash is produced in two forms by the Indian Producers - Light Soda Ash and Dense Soda Ash. The difference in the two types is bulk density. Further, soda ash can be either natural soda ash or synthetic soda ash, both products are essentially the same. In the present investigation all types and form of Soda Ash have been included i.e. soda ash produced through natural route and synthetic route.
 - b) Soda Ash is an essential ingredient in the manufacture of detergents, soaps, cleaning compounds, sodiumbased chemicals, float glass, container and specialty glasses, silicates and other industrial chemicals. It is also widely used in textiles, paper, metallurgical industries and desalination plants.
 - c) Synthetic soda ash is manufactured using the Solvay, Hou, or ammonia-soda process. The production process in Turkey, of natural Soda ash is solution mining of Trona. The Trona mine is extracted to the surface by solution mining. Another

- production process employed in USA is the room and pillar method, where Trona is mined and conveyed to the surface to be refined into dense soda ash
- d) The product under consideration is imported under Chapter 28 of the Customs Tariff Act, 1975, under customs sub-heading 2836.20. The customs classification is indicative only and is not binding on the scope of the product under consideration.
 - e) There is no difference in product produced by the Applicant and exported from the subject countries.
 - f) Product produced by the Domestic Industry is alike to PUC. Authority in the Final Findings No. 14/17/2010-DGAD dated 17.02.2012 concluded that the only difference between the light and dense soda ash is bulk density only, they are two forms of the same product differing negligibly in price. Natural and Synthetic soda ash have no difference in terms of product characteristics, functions and uses, customs classification and pricing of the product, the difference is only in manufacturing routes. However, this cannot render the two grades as dislike articles, when the two are interchangeably used. Comparison is required to be undertaken only if the cost or price of the product varies significantly over the investigation period.
 - g) The European Commission (EC) in Regulation (EC) No 823/95 of 10 April 1995 noted that even when different production processes maybe employed, products obtained are alike in all respects as regards their physical and technical characteristics as well as their potential use.
 - h) Production process has been examined earlier. The European Commission (EC) in Regulation (EC) No 823/95 of 10 April 1995 noted that even when different production processes maybe employed, products obtained are alike in all respects as regards their physical and technical characteristics as well as their potential use. The South African duty on soda ash also doesn't consider light and dense as different products.
 - i) Light & Dense soda ash are two forms of subject goods. Price and cost is not significant enough to warrant a comparison. There is no consistent trend of difference in price. Light soda has been sold at a higher price than dense. Existence of difference in price is the first factor to take into consideration for establishing a separate analysis.
 - j) Type-wise segregation is not necessary. Information provided by the DGCIS also shows that there is no consistent difference in the price of the dense and light soda ash.

C.2. Submissions made by Other Interested Parties

- 3. Following submissions have been made by any other interested party with regard to product under consideration and like article:
 - a. Light and dense soda ash have been analysed on average basis, which is incorrect as they different in terms of users and are not interchangeable. Apple to apple comparison should be done.
 - b. While producer like GHCL is into both Light Soda Ash and Dense Soda Ash, producer like RSPL is only into production of Light Soda Ash. Thus, the impact of alleged dumped imports of Light Soda Ash should be compared with the corresponding Indian production of Light Soda Ash and the impact of alleged dumped imports of Dense Soda Ash should

be compared with the corresponding Indian production of Dense Soda Ash and averages shall only give misleading information and such mere averages cannot form the basis of any finding.

- c. It is an admitted fact that Soda Ash is produced and sold in two types namely Light Soda Ash and Dense Soda Ash. It is also a fact that every producer may not be producing both these types. It is also a fact that these two types have distinct uses and cost and price of these two types also vary. But defined as one single product in the PF without any examination.

C.3. Examination by the Authority

4. The product under consideration (PUC) in the present investigation is Disodium Carbonate, popularly known as Soda Ash, having chemical formula Na_2CO_3 . Soda Ash is produced in two forms - Light Soda Ash and Dense Soda Ash. The difference in the two types is bulk density. It can be produced through synthetic route, known as dissolution process, and natural route. The present investigation includes all types and forms of Soda Ash.
5. Soda ash is used in the manufacture of detergents, soaps, cleaning compounds, sodium based chemicals, float glass, container and specialty glasses, silicates and other industrial chemicals.
6. Subject goods are classifiable under Chapter 28 of the Customs Tariff Act, 1975, under customs sub-heading 2836.20. However, the customs classification is indicative only and is not binding on the scope of the product under consideration.
7. The Authority notes from the information available on record that the product under consideration produced by the domestic industry is like article to the goods imported from the subject countries. Product under consideration produced by the domestic industry and imported from the subject countries are comparable in terms of physical & chemical properties, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. Even though there are different manufacturing process/technologies involved for production of the subject goods i.e. solution mining of Trona in Turkey; room and pillar method in USA; and Solvay, Hou, or ammonia-soda process for synthetic soda ash, the end product has comparable specifications and is used interchangeably. The Authority further notes that the imported and the domestically sold products are technically and commercially substitutable, and the consumers are using the two interchangeably.
8. As regards the contention that light and dense soda ash are two different product types whose cost and price differs significantly and are not interchangeable and thus should not have been considered as one product, the Authority notes that similar issue was raised in the past investigations on same product and the Authority had considered in all such investigations that light and dense soda ash are both one product and that the cost and price difference is minimal which does not warrant any separate analysis. The Authority conducts separate analysis for the purpose of dumping margin, injury margin in case the cost and price vary significantly. None of the interested parties have brought sufficient information to show significant difference in cost and price. Further, the information on record in terms of the data filed by exporters also does not show any fixed pattern of difference in the cost and price

of dense and light soda ash. Thus, the Authority has considered that both light and dense soda ash are covered under one product scope.

D. SCOPE OF DOMESTIC INDUSTRY & STANDING

D.1. Submissions made by the Domestic Industry

9. The submissions made by the Domestic Industry with regard to scope of Domestic Industry & standing are as follows:
- a) The Applicants, M/s. DCW Ltd, M/s. RSPL and M/s. GHCL, are the producers of the subject goods in India. There are three other producers of the subject goods, other than the Applicants, i.e. M/s. Tata Chemicals Ltd. (TCL), M/s. Nirma Limited, and M/s. Tuticorin Alkali Chemicals and Fertilisers Ltd. (TAC). M/s. Tata chemicals has exported subject goods to India, and M/s. Nirma Limited has a related producer in USA and has also exported the subject goods; and are thus, ineligible to constitute domestic industry under the Anti-Dumping Rules.
 - b) The Applicants have not imported the product under consideration from the subject countries, and are also not related to any importer in India or any exporter from the subject countries.
 - c) The Applicants hold a major proportion of total Indian production. Accordingly, the Application clearly satisfies the requirement of standing and thus, the applicants constitutes 'Domestic Industry' in India for the product concerned in terms of Rule 2(b) read with Rule 5(3) of the AD Rules.
 - d) Constituency of the domestic industry is determined on a case to case basis. Merits of present application cannot be decided on a previously concluded investigation. Determination of initiation, preliminary analysis, provisional duty recommendation shall be made on an objective analysis.
 - e) Production of DCW, RSPL and GHCL undisputedly constitute major proportion of the Indian production, Nirma not an applicant, therefore rightly constitute domestic industry under Rule 2(b) and have standing terms under Rule 5(3). Imports of Nirma significantly higher.
 - f) Soda ash is the PUC and thus there is no need for segregating Indian production on a type-wise basis.
 - g) Nirma and Tata's eligibility only need to be checked under Rule 2(b) read with Rule 5 if they had chosen to be applicants. Even if Nirma is considered eligible domestic producer, the application still satisfies the test of Rule 2(b) and Rule 5(3).
 - h) The volume of exports made by Nirma's affiliate in the current period are significantly higher than the volume of exports made by them in the previous investigation. imports made by related party has shown significant increase in absolute and relative terms from the original case. The imports constitute ****% of total imports from USA and more than ****% of its own production.
 - i) The domestic industry cannot compel the parties to provide information. The participating producers qualify the criteria of standing as per AD Rules by themselves. Reference to Polyester Staple Fibre case is misplaced.
 - j) The Authority in preliminary findings has analysed the scope of domestic industry and observed that both Tata and Nirma have significant exports in comparison to imports from USA and were at dumped prices. Therefore, they were treated as ineligible domestic industry of subject goods in India. The applicants for the present anti-dumping

investigation are DCW, RSPL and GHCL, each of which has filed the requisite information as per the prescribed format.

- k) Authority is required to assess whether, the total production of DCW, RSPL and GHCL constitutes major proportion of the total Indian production, Nirma wasn't an applicant and merely supported the investigation. The mentioned applicants constitute domestic industry under 2(b). Application has standing terms under 5(3), irrespective of Nirma being treated as eligible or ineligible domestic producer.

D.2. Submission of other interested parties

10. Following submissions have been made by other interested parties with regard to scope of domestic industry and its standing:

- a. Petitioners cannot themselves determine which producer would be excluded or included in term of Rule 2(b). The authority to define "domestic industry" lies with the Designated Authority.
- b. Petitioners have not provided their share of production after taking into account the production of excluded producers in total Indian production.
- c. RSPL could not have suffered because of dense soda ash. Statement of Indian production should include types wise production.
- d. The Authority needs to recheck the revised quantum of imports made by Nirma and Tata for revised POI to check their eligibility under Rule 2(b) read with Rule 5
- e. The Authority should call and examine data of other domestic producers including Nirma to ensure fair and holistic appreciation of data. This is also as per Authority's practise. Reference has been made to investigation concerning imports of Polyester Staple Fibre; and Coated papers.
- f. Applicant itself stated that Nirma is ineligible and Authority accepted without seeing the jurisprudence. Reliance placed on Czako Human and Miranda. None of the criteria applied. Reliance placed on Thailand-H-Beams.

D.3. Examination by the Authority

11. The application has been filed by M/s. DCW Ltd, M/s. RSPL and M/s. GHCL Ltd. The Applicants have informed that currently there are three other producers of the product under consideration in India, namely, M/s. Tata Chemicals Ltd. (TCL), M/s. Nirma Limited, and M/s. Tuticorin Alkali Chemicals and Fertilisers Ltd. (TAC).
12. It is noted that the application has been supported by M/s. Nirma Limited. After filing of the application, letters were filed by M/s. Tata Chemicals Ltd. (TCL) and M/s. Nirma Limited providing details of exports made by their affiliate parties in USA to India. It is seen that exports made by the affiliate company of Tata Chemicals, i.e., M/s Tata Chemicals North America is quite significant in relation to total imports from USA, similarly exports made by the affiliate company of Nirma Ltd, i.e., Searles Valley Minerals Inc. is also quite significant in relation to total exports from USA. Both these US companies have filed questionnaire response, demanding determination of individual dumping margin. It is seen that exports made by the affiliate parties is significant. The Authority notes the submission made by other interested party and notes that analysis of questionnaire response shows that exports made by these companies are at dumped prices. Therefore Tata Chemicals and Nirma Ltd are treated as ineligible domestic industry of subject goods in India

13. The Authority notes the submissions of the interested parties that M/s. Nirma Limited was an applicant in previous investigations and was considered as an eligible domestic producer despite being related to an exporter. It is seen that in the present investigation, Nirma has not come forward as the applicant. The production of the applicants has been determined and they constitute a major proportion in total Indian production. Thus, the applicants had sufficient standing to file the application.
14. It is also noted that the applicants have not imported the product under consideration and are not related to any importer in India or any exporter from the subject countries. Accordingly, the Authority holds that for the purpose of this investigation, the application satisfies the standing requirement and the applicants constitute the Domestic Industry in terms of Rule 2(b) and Rule 5(3) of the Rules.

A. Confidentiality and other miscellaneous issues

Submissions by the Domestic Industry

15. The submissions made by Domestic Industry are as follows:

- a. Arguments made by interested parties against reference form of duty and relying on DGTR manual as well as Australian Commission, is wrong. DGTR and guidelines of Australian Commission do not suggest that benchmark duty is against downstream industry, rather it is favourable. Prices of soda ash fluctuated significantly and declined consistently post POI. Thus, fixed form of duty shouldn't be levied [relevant part of manual mentioned in the rejoinder]. Prices of the PUC has declined steeply without corresponding decline in costs. Thus, fixed form of duty will also not result into the desired effect and would be inadequate to protect the domestic industry from unfair trade. The Guidelines on the Application of Forms of Dumping Duty by the Australian Anti-dumping Commission considers this as a disadvantage to the DI only.
- b. Reference price of duties are generally not in favour of the domestic industry. Landed price of imports declined by Rs. 1,163/MT. The fixed form of duty is likely to get absorbed by the exporters in near future making the duties ineffective.
- c. In reference to argument citing JSW Steel Coated Products Ltd. v. UOI, the same states that facts and circumstances of each case needs to be seen in order to determine the form of duty. Facts of the present case demand a benchmark form of duty.
- d. In reference to arguments of other interested parties of recurring investigations it is submitted that these Investigations have concluded and should not have bearing on the present investigation. Petitioners do not claim suffering injury even with duties in place, rather there is a recurrence of injury soon after cessation of duties, foreseen by the petitioners. An application pursuant to this has only been filed by the petitioners.
- e. For arguments of other interested parties that simultaneous imposition of CVD and ADD should not take place, it is submitted that CESTAT in M/s Suncity Sheets Pvt. Ltd v. Union of India observed that both duties can be imposed together, given that they don't exceed the injury margin though the dumping margin may be higher. Same was upheld by the Supreme court.
- f. In counter to POI being arbitrary, it is submitted that the selection of POI is not arbitrary as due reasons to undertake analysis on the most recent data has been given in the initiation notification.

Submissions by the other interested parties

16. Submissions of the interested parties are as follows:

- a. Reference price of duty is punitive towards importers and users. Globally the prices are fluctuated and genuinely declining, reference price would penalise Indian importers. Decline in prices not due to dumping.
- b. Reference form duty is not appropriate, reliance is placed on *JSW Steel Coated Products Ltd. v. UOI*, wherein it was stated by Hon'ble CESTAT that Authority should consider facts and circumstances of each investigation while recommending a form of duty.
- c. Further, reliance is placed on manual of DGTR, that provides circumstances wherein reference form of duty is considered appropriate:
 - i. There is a need to protect interests of the downstream industry.
 - ii. User industry imports certain grades that are not available in the country or domestic industry.
 - iii. It is not desirable when major raw materials are liable to significant price fluctuations.
 - iv. It is ineffective in a rising market and too protective in a falling market.

Therefore, reference price is not fit due to commercial factors of the PUC and associated market. PUC tends to have price fluctuations, and its prices have declined post-POI.

- d. As per the above-stated decline in prices, this is accompanied by decline in raw material costs of steam coke, coal and limestone. Therefore, this is not intensification of dumping, rather decline in price globally.
- e. 3 scenarios detailed to explain why reference price not appropriate as downward price fluctuation would make the duty excessively punitive. Each form of duty, i.e. reference, ad valorem and fixed, and its feasibility in each scenario has been explained, which are:
 - i. Scenario 1 is the facts of the present case, i.e. considering the current market price and landed price, the duty payable is what is being sought.
 - ii. Scenario 2 is a situation where the landed price moves upwards and so does the market price, then the duty payable would be zero (reference form).
 - iii. Scenario 3 is a situation where price fluctuates downwards, then the duty payable would become excessive and punitive for importers.
- f. Reference price as a form of duty is incompatible with products that face price volatility is also recognized by other anti-dumping authorities. Reliance is placed on Guidelines on the Application of Forms of Dumping Duty issued in November 2013, of the Australian Anti-dumping Commission.
- g. Hon'ble Designated Authority's Office Memorandum (OM) dated 18 June 2019 is purely recommendatory and does not specify any mandatory obligation for the levy of reference price, and does not provide any guidance as to when reference price form of duty must be recommended.
- h. Reference price form of duty unfairly benefits the Domestic Industry, facilitates "profiteering" and is not in public interest.
- i. There have been recurring investigations on subject imports initiated by DGTR. Authority recommended cessation of duties in case of US and Turkey as recent as Dec 2018 and Mar 2019 respectively. Anti-dumping duties were levied for about 7 years

- subsequent to which authority decided that there should be a cessation of duties. Two applicant companies DCW and GHCL have been involved in repeatedly filing applications to initiate anti-dumping investigations. The purpose of law is to protect DI from unfair trade and is not a protectionist tool to protect inefficient industries.
- j. Reliance is placed on section 9B(1)(a) to state subject goods cannot be subjected to both anti-dumping duty and countervailing duty for the same situation of dumping or export subsidization. Designated Authority should not compensate the same injury twice.
 - k. The selection of the period of investigation i.e. 9 months is arbitrary and contrary to the established law. As per the Anti-dumping Rules, the Authority is required to take 12 months as the period of investigation, and in exceptional circumstances, a minimum of 6 months and maximum of 18 months as the period of investigation, provided reasons are recorded in writing for taking such a period. However, in this case, no rationale has been provided for transgressing from established practice of 12 months to 9 months.
 - l. EQ Response has been filed by Soda Sanayii A.S from Turkey in the present investigation. However, the name of the company stands changed to Turkiye SiSe ve Cam Fabrikaları Anonim Sirketi. Name change is the result of share merger of the Company with T.Sise ve Cam Fabrikaları A.S (in short) vide the merger agreement dated 27.4.2020 which was accepted by the Capital Markets Board's (CMB) on 24.7.2020. As part of the merger, SODA SANAYII's shareholders will receive 1.15997 (both in quantity and amount in TRY) Şişecam shares, in return for each 1 Kurush nominal value Soda Sanayii shares they have. T.Sise ve Cam Fabrikaları A.S was the largest shareholder of Soda Sanayii A.S at the time of filing the EQR and the merger here needs to be seen in light of the same. Plant of Soda Sanayii A.S continues to be the only Soda Ash Plant under T.Sise ve Cam Fabrikaları A.S even after the share merger. Hence, it is essential that the Authority may accept the above name change for all the practical purposes concerning the response filed by Soda Sanayii A.S. The merger has not brought in any other changes in the plants and operations of Soda Sanayii A.S as the merger is effected through allocation of appropriate number of shares only. Merger Agreement dated 27.4.2020, approvals from CMB dated 24.7.2020 etc has been provided to the Authority.

Examination by the Authority

17. Submissions made by the interested parties have been examined as under:

- a. The Authority has considered the confidentiality claims as per the AD rules and the approach being adopted in Trade Notice No. 10/2018.
- b. As regard the submission of the interested parties that the Authority must ensure that the alleged injury is not offset twice in accordance with Section 9B (1) (a) of the Customs Tariff Act, 1975 in view of parallel countervailing duty investigation on imports of Soda Ash from Turkey, the Authority notes that there is no bar in conducting parallel investigation, provided the duties do not exceed the injury margin. Also, in case a product is already attracting anti-dumping duty, countervailing duty imposed shall be equivalent to the difference between the quantum of countervailing duty and antidumping duty payable, if any.
- c. The selection POI of 9 months is not arbitrary as antidumping duties were in force on subject goods from USA and Turkey and the Authority recommended cessation of duties

against USA and Turkey on 14th December 2018 and 14th March 2019 respectively. Thus, in order to examine impact of dumped imports on the performance of the domestic industry, the Authority considered a period after cessation of duties. Also, the WTO's guidelines on POI suggest a POI of at least 6 months. There is no restriction on POI with a duration of less than 12 months though post initiation of this investigation, the duration of POI is included in the rules. The Authority has in past considered POI different from 12 months also and in this case no different standard has been adopted.

- d. The Authority notes that no form of duty may respond in the same manner to the export prices as these are a function of various parameters and therefore may elicit varied responses from various stakeholders at different points of time. The Authority, in this regard, notes the submissions of the interested parties on the recommendation of reference price form of duty and has considered any admissible measure in an appropriate form keeping in view the facts and circumstances and ensuring that the provisions of Lesser Duty Rule are not violated.
- e. The Authority accepts the change in name of exporter, Soda Sanayii A.S, Turkey to Turkiye SiSe ve Cam Fabrikaları Anonim Sirketi, considering that the Soda Sanayii A.S. has been merged with Turkiye SiSe ve Cam Fabrikaları Anonim Sirketi and this merger has not brought any other changes in the plants and operations of Soda Sanayii A.S.

E. NORMAL VALUE, EXPORT PRICE & DETERMINATION OF DUMPING MARGIN

E.1. Submissions by the Domestic Industry

18. The following submissions have been made by the Domestic Industry:

- a) Efforts were made to get evidence of the price of subject goods in Turkey and USA, however, domestic industry were unable to get any information/evidence of price of subject goods in the form of actual transaction prices. Applicants, therefore, have relied on prices published in HIS Markit: Global Soda Ash Monthly Issues for April-November 2019, to determine price meant for consumption of the product prevailing in the subject countries.
- b) Export price from the subject countries has been adjusted for the following expenses, which the exporters from the subject countries have incurred for exporting to India, i.e. Ocean Freight, Marine Insurance, Commission, Inland Transportation, Bank Charges and Port Expenses.
- c) Considering the normal value and export price, dumping margin has been determined. The dumping margins so determined from the subject countries are above de minimis levels and significant.
- d) Preliminary findings establish dumping margins are more than de-minimus and significant, however the Applicants consider margins to be low.
- e) The dumping margins need to be determined for the product which is soda ash, and has been done previously by the Authority as well as by other countries, type-wise determination is not necessary. Infact, the information provided by the DGCIS would also show that there is no consistent difference in the price of the dense and light soda ash.
- f) The Authority has noted that since there is an appreciable price difference to independent and related entities, and that the exporter has not established that sales to related buyer in home market in the ordinary course of trade, for the purpose of preliminary finding, the Authority has considered sales to independent customers only.

It is the obligation of the exporter to prove based on the data and evidence that such sales are made at ordinary course of trade

E.2. Submissions by the other interested parties

19. Following submissions have been made with regard to, Normal Value, Export Price and Dumping Margin:
- a. POI is April 2019 to December 2019, however, the data relied on with respect to normal value and export price to initiate the present investigation upto November 2019. No details provided as to what basis these prices were arrived at and confidentiality has been claimed on the IHS Markit. It is not clear if the updated data provided by the Petitioners up to December 2019 relies on the same source or some other source.
 - b. Ex-factory export price for Turkey and USA is grossly understated. HUL has determined ex-factory export price based on its import price and using the adjustment claimed by the petitioners and traders' margin as per market intelligence. Export price is in the region of 220 -240 USD/MT for Turkey and USD/MT200 -220 for USA.
 - c. Dumping margin would be negative if fair comparison is done. Landed price of dense with NIP of dense.
 - d. Soda Sanayii has exported only dense, even though it has produced both light and dense.
 - e. The indirect sales in the case of the Companies are clearly "compatible" with the "normal" commercial practice and can be considered in the eligible sales for normal value determination. The sales through the related party also can be subjected to OCT test for reasons of price and other requirements of Article 2.1 of the AD Agreement and also Indian AD Rules and a relation alone does not make such transactions and prices unreliable for the purpose of determination of normal value
 - f. It cannot be said that the prices of 85-95% goods sold so was all distorted and unrealistically low to have excluded from the scope of normal value
 - g. For determining normal value for TCSAP related party transactions should be considered.
 - h. Individual duty rates ought to be recommended for TCSAP as per the margins calculated in Preliminary Findings

E.3. Examination by the Authority

20. Under section 9A (1) (c), normal value in relation to an article means:
- i. *The comparable price, in the ordinary course of trade, for the like article, when meant for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6), or*
 - ii. *When there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either:*
 - a. *comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country as determined in accordance with the rules made under sub-section (6); or*
 - b. *the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for*

profits, as determined in accordance with the rules made under sub-section (6);

21. The Authority has sent questionnaires to the known producers/exporters from the subject countries, advising them to provide information in the form and manner prescribed by the Authority.
22. Following foreign producers have filed questionnaire response
 - a. Searles Valley Minerals Inc., USA
 - b. Tata Chemicals Soda Ash Partners ("TCSAP"), Producer, USA
 - c. M/s Tata Chemicals International Pte. Ltd. ("TCIPL"), USA
 - d. ETI Soda Uretim Pazarlama Nakliyat Ve Elektrik Uretim Sanayi Ve Ticaret A.S., Turkey
 - e. Kazan Soda Elektrik Uretim A.S, Turkey
 - f. Ciner IC Ve Dis Ticaret A.S. (CIDT), Turkey
 - g. Türkiye Şişe ve Cam Fabrikaları Anonim Şirketi (formerly Soda Sanayii A.S., Turkey)
23. The Authority notes the submission of interested parties and has evaluated the dumping margin and injury margin on the basis of response filed by the producer/exporter.

Determination of Normal Value and Ex-factory Export Price for producers/exporters of USA

Searles Valley Minerals Inc., USA and Tata Chemicals Soda Ash Partners ("TCSAP")

E.3.1 Determination of Normal Value

24. To determine the normal value, the Authority conducted the ordinary course of trade test to determine profit making domestic sales transactions with reference to cost of production and SGA expenses concerning the product under consideration. Where profit making transactions are more than 80%, the Authority considered the transactions in the domestic market for the determination of the normal value and in case, profitable transactions are less than 80%, only profitable domestic sales are taken into consideration for the determination of normal value.

Searles Valley Minerals Inc., USA

25. From the response filed by Searles Valley Minerals Inc. the Authority notes that the company has made direct sales of the product under consideration in the domestic market during the POI.
26. Further, it is seen that the company has sold material in the domestic and Indian market both directly and through affiliated companies. However, the exporter has not provided any justification and evidence as to how these sales to affiliated parties are in the ordinary course of trade. Considering that the exporter has not established how the sales to affiliated are in the ordinary course of the trade, the Authority has ignored sales made by the company to its affiliated company. Subject to the above, the Authority has

considered and adopted the questionnaire response filed by both the producers from USA. Based on the ordinary course of trade test, profitable domestic sales to unrelated customers have been taken for determination of normal value, wherever the profitable sales were less than 80%. Wherever profitable sales were above 80%, normal value has been determined based on total domestic sales. Price adjustments have been allowed, as claimed, and pending further determination. Accordingly, normal value has been determined at ex-factory level, as *** \$/MT.

M/s Tata Chemicals Soda Ash Partners ("TCSAP"), Producer, M/s Tata Chemicals International Pte. Ltd. ("TCIPL") and M/s Tata Chemicals Ltd. ("TCL")

27. The producer/exporter has sold *** MT of subject goods in their domestic market during POI which include *** MT to unaffiliated customers, and *** MT to affiliated and *** MT to ALCAD, partnership, a related trader (who sold it further to end customer/users). The Authority notes the submission of the producer/exporter and re-iterates that since there is an appreciable price difference to independent and related entities, and that the exporter has not established that sales to related buyer in home market in the ordinary course of trade, the Authority has considered sales to independent customers only as adopted in the preliminary finding. Further, the Ordinary Course of Trade test i.e the OCT test is though common for both related and independent buyers, the test for sales to related parties need to be further evidenced being at Arm's length. Price adjustments have been allowed, as claimed, and pending further determination. The 'normal value' after applying significant and OCT test comes to *** \$/MT.

All other Producers/Exporters from USA

28. In respect of all other producers/exporters from USA who are treated to be non-cooperative, the Authority has determined normal value as per facts available in terms of Rule 6(8) of the AD Rules. The questionnaire response filed by the US producers is considered for the purpose. The highest normal value in the domestic market is adopted.

E.3.2 Export Price

Searles Valley Minerals Inc., USA

29. From the response filed by Searles Valley Minerals Inc., USA, the Authority notes that Searles Valley Minerals Inc. is a producer as well as exporter of the subject goods. During the POI, Searles Valley Minerals Inc., USA has exported subject goods to an extent of *** MT to India directly. Adjustments towards inland freight, credit cost, handling expenses, commission, insurance, overseas freight and foreign exchange loss have been claimed by the producer/exporter. Adjustments towards inland freight, credit cost, handling expenses, commission, insurance and overseas freight have been allowed by the Authority. Accordingly, the net export price determined for exports to India has been determined as USD *** per MT. The landed value is computed as *** \$/MT.

M/s Tata Chemicals Soda Ash Partners ("TCSAP"), Producer, M/s Tata Chemicals International Pte. Ltd. ("TCIPL") and its related importer M/s Tata Chemicals Ltd. ("TCL")

30. M/s Tata Chemicals Soda Ash Partners ("TCSAP"), USA, the producer have exported *** MT which includes *** MT to India through its related exporter to M/s Tata

Chemicals International Pte. Ltd. ("TCIPL"), Singapore and also *** MT directly to M/s Tata Chemicals Ltd. ("TCL") a related importer in India during POI. The ex-factory export price of *** \$/MT of subject goods to India in POI has been considered after considering adjustments on freight and delivery charges. The landed value is evaluated as *** \$/MT.

Export Price for non-cooperating producers/exporters from USA

31. The Authority has determined the export price for non-cooperating producers/exporters from USA based on facts available, for which the questionnaire responses filed by the producers from USA are considered. The lowest selling price for exports to India is considered.

Determination of Normal Value and Ex-factory Export Price for producers/exporters of Turkey

ETI Soda Uretim Pazarlama Nakliyat Ve Elektrik Uretim Sanayi Ve Ticaret A.S. and Kazan Soda Elektrik Uretim A.S. – The Ciner Group

a) ETI Soda Uretim Pazarlama Nakliyat Ve Elektrik Uretim Sanayi Ve Ticaret A.S. (ETI Soda in short)

32. The producer is from Ciner Group of Companies and produces Natural Soda Ash and had produced and sold Dense Soda Ash only as claimed by the Company. ETI Soda has produced *** MT of PUC during the POI. The Company had sold *** MT of the PUC directly to independent customers and *** MT to its related companies in the domestic market. Out of the related companies, only one of its related companies namely Ciner IC Ve Dis Ticaret A.S. (CIDT) had sold *** MT of PUC to independent customers in the domestic market. The Authority notes the submission of the producer/exporter and re-iterates that since there is quite a difference between the domestic selling price to related and non-related entities and that the exporter has not established that sales to related buyer in home market in the ordinary course of trade, the Authority, has considered the normal value, based on the direct sales of ETI to independent customers (*** MT) as adopted on the preliminary finding. Further, the Ordinary Course of Trade test i.e the OCT test is though common for both related and independent buyers, the test for sales to related parties need to be further evidenced being at Arm's length.
33. The Exporters Questionnaire Responses filed by ETI Soda and CIDT have been examined. The domestic sales of the subject goods by ETI Soda in their domestic market is representative and viable for permitting determination of normal value on the basis of their domestic selling prices. The ordinary course of trade test is also undertaken on the transaction wise domestic price data and cost data provided by ETI. The normal value so determined is US\$ *** per MT for the POI.

b) Kazan Soda Elektrik Uretim A.S (Kazan in short)

34. The above producer is also from the Ciner Group of Companies and produces Natural Soda Ash and had produced and sold Soda Ash Dense only as claimed by the Company.

Kazan Soda ElektrikUretim A.S had produced *** MT of PUC during the POI. The Company had sold *** MT of PUC in the domestic market directly to independent customers. The Company had also sold *** MT of PUC in the domestic market to its related companies out of which one of its related Company namely Ciner IC Ve Dis Ticaret A.S. (CIDT) had sold *** MT to independent customers in the domestic market. For the purpose of normal value, the Authority has to considered only the direct sales of Kazan to independent customers (*** MT) keeping in view that selling price of the producer to related and non-related has an appreciable difference and that the exporter has not established that sales to related buyer in home market in the ordinary course of trade.

35. The Exporters Questionnaire Responses filed by Kazan and CIDT have been examined. The domestic sales of the subject goods by Kazan in their domestic market is representative and viable for permitting determination of normal value on the basis of their domestic selling prices. The ordinary course of trade test is also undertaken on the transaction wise domestic price data and cost data provided by Kazan. The normal value so determined is US\$ *** per MT for the POI.

c) Türkiye Şişe ve Cam Fabrikaları Anonim Şirketi (formerly Soda Sanayii A.S.) – The Sisecamgroup

36. The producer is from Sisecamgroup of companies and produces Synthetic Soda Ash and had produced and sold both Soda Ash Dense and Soda Ash Light. Türkiye Şişe ve Cam Fabrikaları Anonim Şirketi has produced *** MT of PUC during the POI. The Company had sold *** MT of PUC in the domestic market directly to independent customers and *** MT of PUC in the domestic market to its related companies who had consumed it as raw material without any resale. It is also noted that the Company had imported *** MT of Soda Ash from its related company in Bulgaria and Bosnia and such imported volume is also covered in the total domestic sale of *** MT. The Company claimed that since these materials are not originating in Turkey, normal value need to be calculated based on the own manufactured goods without considering the sale of imported material. The Company has further claimed that since they had sold only Soda Ash Dense to India, the sales of only Soda Ash Dense in domestic market need to be considered for calculation of normal value. The Authority notes that the producer has claimed only one cost for both dense and light grades which also includes the soda ash imported and then sold in the domestic market. There is no evidence and justification to restrict the analysis only to Dense Soda Ash only when the exporter has himself provided a consolidated cost for dense, light and imported goods in appendix 8. Hence, for the purpose of normal value, the direct sales of subject goods sold to independent customers of both grades i.e. Soda Ash Dense and light (*** MT) including that is imported are taken in to consideration.
37. The Exporters Questionnaire Responses filed by the Company have been examined. The domestic sales of the subject goods by the producer in their domestic market is representative and viable for permitting determination of normal value on the basis of their domestic selling prices. The ordinary course of trade test is also undertaken on the transaction wise domestic price data and cost data provided by the producer. The normal value so determined is US\$ *** per MT for the POI.

All other Producers/Exporters from Turkey

38. In respect of all other producers/exporters from Turkey who are treated to be non-cooperative, the Authority has determined normal value as per facts available in terms of Rule 6(8) of the AD Rules. The questionnaire response filed by the producers from Turkey are considered for the purpose. The highest normal value in the domestic market is adopted.

Export Price

ETI Soda Uretim Pazarlama Nakliyat Ve Elektrik Uretim Sanayi Ve Ticaret A.S. and Kazan Soda Elektrik Uretim A.S. – The Ciner Group

a) ETI Soda Uretim Pazarlama Nakliyat Ve Elektrik Uretim Sanayi Ve Ticaret A.S.

39. The Company had exported *** MT of subject goods to India directly during the POI. All these sales were at FOB terms. The company has submitted adjustments on account of inland freight and port handling expenses and the same is accepted to work out the ex-factory export price. The net export price determined for the Company so comes to US\$ *** per MT for the POI. The landed value is computed as *** USD/MT for the POI.

b) Kazan Soda Elektrik Uretim A.S

40. The Company had exported *** MT of subject goods to India through CIDT during the POI. All these sales were at FOB terms. The company has submitted adjustments on account of inland freight and port handling expenses and the same is accepted to evaluate the ex-factory export price. The net export price for the Company comes to US\$ *** per MT for the POI. The landed value is computed as *** \$/MT for the POI. The authority has not considered the sale of through the related company for the purpose of final finding.

c) Türkiye Şişe ve Cam Fabrikaları Anonim Şirketi (formerly Soda Sanayii A.S.)

41. The Company had exported *** MT of subject goods to India directly and *** MT through its related exporter namely Sisecam Dis Ticaret A.S. during the POI who have also filed the Exporters Questionnaire Response. The Company has submitted adjustments on account of inland freight, port handling expense, ocean freight, Marine insurance, commission (in case of sales through related party) and the same is accepted to evaluate the ex-factory export price which comes to US\$ *** per MT for the POI. The landed value is computed as *** \$/MT for the POI.

Export Price for non-cooperating producers/exporters from Turkey

42. The Authority has determined the export price for non-cooperating producers/ exporters from Turkey based on facts available, for which the questionnaire responses filed by the producers from Turkey are considered. The lowest selling price for exports to India is considered.

E.3.3 Dumping Margin

43. Considering the normal value as provided above, and export price as determined, the authority has determined the dumping margins during the POI for all the producers-exporters of the subject countries.

Sl. No	Name of the Producer Company	Normal Value (US\$/MT)	Net Export Price (US\$/MT)	Dumping Margin (US\$/MT)	Dumping Margin (%)	Dumping Margin (Range)
A.	Turkey					
1	a)ETI Soda Uretim Pazarlama Nakliyat Ve Elektrik Uretim Sanayi Ve Ticaret A.S.	***	***	***	***	10-20
	b)Kazan Soda Elektrik Uretim A.S	***	***	***	***	10-20
	Weighted Average of Ciner Group	***	***	***	***	10-20
2	Türkiye Şişe ve Cam Fabrikaları Anonim Şirketi	***	***	***	***	0-10
3	Any other producer/exporter	***	***	***	***	10-20
B.	USA					
4	Searles Valley Minerals Inc.	***	***	***	***	20-30
5	Tata Chemicals Soda Ash Partners ("TCSAP")	***	***	***	***	20-30
6	Any other producer/exporter	***	***	***	***	30-40

44. It is seen that the dumping margins are significant and more than the de-minimus in respect of exports made from each of the subject countries.

F. INJURY ASSESSMENT AND CAUSAL LINK

F.1. Submissions made by the Domestic Industry

45. The submissions made by Domestic Industry are as follows:

- a. PUC is sold in two forms i.e. light and dense. Imports are largely in dense form which is predominantly used by the glass sector. Thus, adverse impact of imports on the domestic industry would be seen in the glass manufacturing sector.

- b. The demand/apparent consumption of the subject goods increased over the proposed injury period.
- c. The volume of imports from subject countries have increased significantly both in absolute and relative terms. Post-cessation of duty, there has been an exponential rise in imports from the subject countries. Imports from subject countries has increased from base year to the POI. Imports in relation to production and consumption (excluding captive) has also increased significantly.
- d. Evolution of prices over the injury period, of the subject countries, EU, Kenya, other major countries and remaining countries, shows that landed price from the subject countries is now lower than all other major countries including Kenya and EU.
- e. Import prices from the subject countries have been significantly below the selling prices of the domestic industry, thus resulting in significant price undercutting. Determination price undercutting on the basis of net sales realisation (NSR) after excluding freight & discount is inconsistent with application proforma, business reality and the purpose of determining price undercutting. Price undercutting should be determined based on selling price and not NSR.
- f. Despite increase in cost of sales and selling price, the increase in selling price was earlier higher than the increase in cost of sales so long as the ADD was in place. However, in recent period prices are falling steeply. Price list of one of the applicant companies shows that even the list prices have declined significantly.
- g. As imports have increased in a short span hence, quarterly analysis has been done. Cost of sales have increased and selling price is declining since Q1 2019-20. Rate of increase of cost of sales is much higher than rate of increase in landed price. Landed price of imports from the subject countries, are below the level of selling price of the domestic industry. Imports are thus suppressing and depressing the prices of the domestic industry consequently adversely impacting the profitability. Imports are largely in dense form, thus imports are mostly competing in the consumer segment of dense soda ash i.e. glass manufacturing industry.
- h. Production and sales of the domestic industry has increased over the injury period with increase in demand and capacity enhanced. However, production and sales of the domestic industry is lower than what it could have been in the absence of dumped imports, which have increased significantly. Quarterly movement would show that despite increase in demand, the domestic sales have declined. Despite increase in demand, inventories have increased.
- i. There is a significant increase in the market share of subject imports in the POI by 254% from base year. Share of domestic industry has increased however, share of domestic producers as a whole declined.
- j. Domestic industry's profitability improved upto 2018-19, and declined in the proposed POI. The applicants submitted that as imports are largely used in glass sector; hence, profitability of the domestic industry has declined more in glass than in non-glass sector.
- k. Return of investment (ROI) has progressively declined over the injury period, and has declined significantly in the POI when compared to the base year.
- l. The level of inventories with the domestic industry have increased over the injury period. In a scenario of increasing demand, inventories should have increased, however, it has increased not just with DI but with other domestic producers as well.
- m. The number of employees and wages, considering increase in capacity have also increased. However, the applicants submitted that the same is not solely dependent on performance of subject goods, rather governed by legislative requirements of the country and various business compulsions with the industry.

- n. The growth of domestic Industry was positive in terms of production, domestic sales. However, the growth in terms of inventories, profits, cash profits and return on investment was negative in the POI.
- o. South Africa in 2019, in a SSR investigation against imports of soda ash from USA extended duties for 5 years.
- p. Increased imports over the POI, imports undercutting prices of industry, imports causing price suppression, positive and significant price underselling, decline in cash profits, profits and return on capital, surplus capacities indicating threat of injury were found in the preliminary findings.
- q. Transport cost is not exclusive for the Indian industry. In the 2019 Annual Ciner Group Report, Ciner Group concluded that the soda ash industry was logistics intensive and that the large freight costs made up a substantial amount of delivered cost. Increase in freight costs increases costs of final delivery significantly, making soda ash less competitive than other substitutes. Exporters observe the same. Thus, exclusion of freight in calculation of price undercutting should not to be applied across the board to all cases and should rather be seen industry wise.
- r. Decline in import prices made a significant decline in Domestic industry's selling prices as well, further reducing profitability and increasing imports.
- s. Fresh production capacities have been established by the subject countries. The U.S Geological Survey, 2019 claimed production capacity in Turkey to be between 4 million and 5 million tons. Exports of soda ash have grown at CAGR 117% over 2014-18. Production capacity of USA enhanced by 305,000 tons of soda ash per year, totalling to 14 million tons.
- t. According to IHS Markit Report [28th February 2020], exports from subject countries have increased significantly, especially to India with similar levels seen only in Malaysia and Indonesia. Covid-19 effected a decline in Turkey's domestic market by 10% and to exports to Indian Sub-continent. The USA domestic market demand and export demand have also declined. Thus, in constrained domestic demand, Indian market is liable to be targeted more.
- u. According to Ciner Resources LP's, First Quarterly Report of 2020, despite the decline impacted by the pandemic Ciner observes an increase in production. Increase in inventory levels, production, capacity utilization has also been seen. ANSAC, largest customer to Ciner group was terminated, thus more focus to be given on Indian industry. As Ciner is a low cost producer and the US and Turkey divisions of the company set to combine export volumes, optimizing their market shares internationally. Therefore, because India is a favourable market of soda ash to the subject countries, the likelihood of amplifying detriment of the domestic producers increases.
- v. Actual cost of RSPL not considered by the Authority. NIP determination by DGTR involves optimized costs, the non-inclusion of freight in the injury margin determination led to low quantum of duties. Selling products at market prices and a decline in these prices show that RSPL suffered injury.
- w. No evidence as to how 22% return on capital employed is not justified. CESTAT observed that 22% return is valid as per consistent practice of the Designated Authority, the onus to disprove the same being on the refuting party.
- x. Capital employed to be assessed on present value of fixed assets, information of the same is on record in form of investments made by RSPL. Investments made by GHCL and DCW are significantly old and therefore net fixed assets do not represent true value of investments. Authority shall consider per unit NFA over the injury

- period along with the information of the 3 companies, which itself will demonstrate the difference between the new and old investments.
- y. Domestic producers have underutilized capacity, thus no shortage of dense soda ash. Benchmark duty can only protect from unfair trade considering steep decline in import price without corresponding decline in cost not just in period of investigation but also post POI. Benchmark duty best suited in a demand-supply gap.
 - z. Production and sales of the domestic industry increased over the injury period in view of increase in demand and capacity enhanced, however it is lower than what it could have been in the absence of dumped imports. The significant increase was possible due to steep decline in import prices. Capacity, production, sales increased nominally as compared to significant subject imports increase despite the increasing and sufficient demand in country. Despite increase in imports, the domestic sales have declined.
 - aa. No authority determines price undercutting over the injury period, nor price undercutting can be determined over the injury period in case there is an elaborate PCN involved. Domestic industry doesn't allege injury for the entire injury period only for the POI.
 - bb. Import price declined within the POI, despite increase in cost of sales, the petitioners were unable to increase their prices as much in order to stay competitive.
 - cc. Domestic Industry was able to improve its performance till 2018-19 due to partial protection of ADD till March 2019, however this declined due to absence of ADD. Reliance of GHCL's performance from its Q3 results of 2019-20 is incorrect and misleading. Quarter wise analysis necessary as while segment revenue might have increased, the segment results have declined significantly.
 - dd. Soda ash expansion loan, capex program, medium term loan and R&D initiatives are factors supporting the claim of growing capacities due to growing demand in India. In the presence of dumped imports, the domestic industry's investment and expansion of capacity is proving to be futile and impacting its performance.
 - ee. Transportation cost not exclusive for the Indian industry, as exporters also claim increase in freight increases cost. Further they are unable to pass this to customers.
 - ff. Statements of Nirma taken from the year precedent to the POI. Statements anyway inconsequential as soda ash division having 36% share in the company's turnover does not prove anything.
 - gg. Threat of material injury proved on all four factors, significant increase in imports both historically and for the current injury period have been provided; sufficient data from government agencies and exporters' company reports on domestic demand in the subject countries, surplus capacities and significant depressing or suppressing effect that would increase demand for further imports.
 - hh. The reason for excessive confidentiality is highly business sensitive information that cannot be made public, its confidentiality is protected under the rules.
 - ii. US exports are not subsidized and therefore subsidies in the exports cannot be a cause of injury to the domestic industry.
 - jj. First, there is an appreciable price difference to independent and related entities, and the exporter has not established that sales to related buyer in home market in the ordinary course of trade, thus for the purpose of preliminary finding, the Authority has considered sales to independent customers only. The burden of proving ordinary course of sales lies on the exporter.
 - kk. Imports from China were at higher price and has thus not been considered as subject country causing injury to the domestic industry.

- ll. Imports along with demand have declined, however in relation to consumption and production they remain high. Imports from other countries in the POI are at a higher price. Injury to the domestic industry has been examined in terms of Annexure II of the AD Rules. Due to Covid-19 current level of Domestic inventories increased, not able to utilize its capacity fully and also not being able sell to the extent produced to the imports.
- mm. Selective reference made to the Annual GHCL report. Imports have led to over-supply of goods leading to increased inventories have also been claimed.
- nn. Industry does not fail to meet demand. IHS Markit Report Supplement Issue No. 139 dated 13th Feb 2020, states that India remains oversupplied despite increase in demand and Indian imports over 2019 increased by 3% y/y.

F.2. Submission by other interested parties

46. Submissions of the interested parties in regard to injury and causal link are as follows:

- a. There is only minor increase in import volumes in relative terms. The market share has increased. Capacity, production and sales quantity of the domestic industry has also increased. Any impact on capacity utilization during the POI is because of the recent increase in capacity by the domestic industry as is also evinced from a decrease in captive consumption
- b. Freight outwards have been included in net sales realization, which is against the Rule. In case the authority chooses to consider the sales price at the factory gate of the customer then landed price should also be adjusted appropriately to ensure a fair comparison between prices
- c. Increase in selling price is less as compared to the costs even when increase in landed price is more than the increase in cost of sales. Thus, alleged price undercutting has not impacted the selling price and thus, is not causing a price suppression/depression.
- d. NIP based on alleged injury margin is in the range of INR 22,048 per MT to INR 22,741 per MT. Import price of HUL, as per the questionnaire response filed, is far above this.
- e. Revenue and EBIT - domestic sales has improved substantially over past few years as is also evidenced from the annual reports of the petitioning companies.
- f. Injury if any, is self-inflicted and caused by factors such as the Petitioners' undertaking loans, investments, capacity enhancement and R&D activities as evidenced from Annual reports.
- g. More than 20% of the total demand of the country is required to be met by imported material, the same further can be corroborated from the recent IHS publication, Jan 2020. Thus, no volume effect can be attributed to imports.
- h. Price-undercutting should be provided for injury period including POI and will be relevant to determine any causal link between the alleged price-undercutting and alleged injury.
- i. There is no threat of material injury. The percentage share of exports of the subject goods to India from USA and Turkey is minimal. Export prices from Turkey into other countries shows that India export prices from Turkey are in fact on the higher side. No evidence on inventories of the subject goods have been provided
- j. Light soda ash producer RSPL has been included for higher NIP.
- k. ROI in 10-20% for industrial input is reasonable and 22% for NIP should not be considered benchmark.
- l. Bona fide dense importers who are importing due to short supply should not be made to pay high duties hence benchmark duty has put undue hardship.
- m. 4. While imports from subject countries may have increased, these imports have not impacted the Domestic Industry. This is because the increase in the domestic sales of the Domestic Industry has clearly outpaced the demand of the subject goods in the country demonstrating a lack of volume injury to the Domestic Industry.

- n. Designated Authority has itself noted in paragraph 69 of the Preliminary Findings that (a) Domestic Industry has enhanced capacity; (b) Production and domestic sales have increased over the injury period in view of demand and addition of capacities and (c) declines in capacity utilization of the domestic industry declined in the POI is due to addition of fresh capacities by M/s. RSPL
- o. Designated Authority is requested to reject the Domestic Industry's argument of including freight when calculating price undercutting as has been held by the Designated Authority in past investigation and calculate price undercutting while excluding freight in the Final Findings as well
- p. Price undercutting should be provided for each year in line with profitability. Import prices increased and cost of sales also increased, but DI did not increase its prices, therefore no suppression/depression. Profits increased during the injury period and ROCE is positive. Decline in ROCE mainly due to increase in capacity.
- q. The Annual Reports, Investors Reports of the Domestic Industry further substantiate that the performance of the Domestic Industry has substantially improved over the injury period. Therefore, injury, if any, to the Domestic Industry is due to other factors.
- r. The other factors that may have caused injury to the Domestic Industry includes loans, increased capacity and other R&D activities undertaken by GHCL as evinced from its Annual Report 2018 – 19. Similarly, DCWL also increased capacity and made certain investments as noted in the DCW Limited Annual Report 2018-19.
- s. Domestic Industry incurs certain logistical costs because the production facilities of the PUC are largely situated in the west coast of the country (i.e. in State of Gujarat) whereas, the demand of the PUC is spread throughout the country resulting in high costs for the buyers/users.
- t. Performance of other producers-Nirma Annual Report 2018-19 shows that it has consolidated its position in soda ash and soda ash has 36% share in the company's turnover.
- u. Table containing data has been submitted showing total revenue, profit before tax and usage of raw material by Nirma, DCW, Tata and GHCL, shows significant increase in these parameters from 2017-18 to 2018-19.
- v. Existence of all four factors to be considered for threat of material injury (Nirma Ltd. vs. UOI). Percentage share of India from Turkey and USA when compared to other destinations, is meagre. For Turkey it was 5.05% in 2017-18 and is 5.43% in POI. For USA it was 2.47% in 2017-18 and 4.16% in the POI. Failed to establish disposable capacities. No evidence provided to claim significant inventory level.
- w. Petitioners in CVD petition under evidence of causal link have stated that imports from USA are at higher prices. Therefore, injury is not being caused because of USA and the Authority should terminate investigation against USA.
- x. Imports post initiation have declined, therefore no need for Authority to recommend provisional duties. Authority has not analysed: (i) imports from other countries and its impact; (ii) performance in terms of Para (ii) & (iv) of Annexure II; (iii) Impact of COVID on industry.
- y. For causation 2019-20 Annual report of GHCL has been relied upon. The report refers to demand suppression due to COVID and low capacity utilisation thereof. 91% utilisation which show GHCL not suffering injury due to imports. Report states that Soda ash business is doing fine. GHCL is profitable and is not suffering due to marquee clients including Saint Gobain.
- z. Saint Gobain imports only for additional requirements.
- aa. Injury is not from Turkey but could be from other countries.
- bb. Increase in inventory is due to slowdown. Price volatility due to coal.

- cc. Applicant industry fails to meet the demand of the consuming industry. Additional duties would severely impact the user industry as well as government's make in India and Atmanirbhar initiative.
- dd. The petitioners failed to bring on record any case of dumping and consequent injury on account of imports of subject goods from subject countries. On the contrary, the performance of the domestic industry has been at very robust levels

F.3. Examination by the Authority

- 47. The Authority has taken note of the submissions made by the interested parties and has examined various parameters in accordance with the relevant Anti-Dumping Rules and Annexure III after duly considering the submissions made.

Cumulative Assessment

- 48. Para (iii) of Annexure II of the Anti-Dumping Rules provides that in case where imports of a product from more than one country are being simultaneously subjected to anti-dumping investigation, the Authority will cumulatively assess the effect of such imports, in case it determines that:
 - a. Margin of dumping established in relation to the imports from each country is more than two percent expressed as percentage of export price and the volume of imports from each country is three percent (or more) of the import of like article or where the import of individual countries is less than three percent, the imports collectively account for more than seven percent of the import of like article; and
 - b. Cumulative assessment of the effect of imports is appropriate in the light of the conditions of competition between the imported article and the like domestic articles.
- 49. The Authority notes that:
 - a. The subject goods are being dumped into India from subject countries. The margin of dumping from each of the subject countries is more than the de minimis limits prescribed under the Rules.
 - b. The volume of imports from each of the subject countries is individually more than 3% of total volume of imports.
 - c. Cumulative assessment of the effect of imports is appropriate as the exports from the subject countries not only directly compete inter se but also with the like article offered by the Domestic Industry in the Indian market.
- 50. In view of the above, the Authority considers that it is appropriate to assess injury to the Domestic Industry cumulatively from imports of the subject goods from the subject countries.
- 51. Rule 11 of Antidumping Rules read with Annexure II provides that an injury determination shall involve examination of factors that may indicate injury to the Domestic Industry, *taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles.*

52. In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. For the examination of the impact of the dumped imports on the Domestic Industry in India, indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, inventory, profitability, net sales realization, the magnitude and margin of dumping, etc. have been considered in accordance with Annexure II of the Anti-Dumping Rules.
53. The submissions made by interested parties with regard to injury and causal link, which have been considered relevant by the Authority are examined and addressed as under.

F.4. Volume Effect of Dumped Imports on the Domestic Industry

(a) Assessment of Demand/Apparent Consumption

54. Demand or apparent consumption of the product in India has been determined as the sum of domestic sales of the Indian Producers and imports from all sources. It is seen that the demand so assessed has shown an increasing trend throughout the injury period.

Demand	Unit	2016-17	2017-18	2018-19	POI	POI (Annualised)
Sales of Domestic Industry	MT	8,15,013	9,28,870	9,66,628	744589	992785
Captive Consumption	MT	56,280	68,223	76,718	1,39,633	1,86,177
Sales of Other Indian Industry	MT	16,07,448	16,76,320	17,74,043	12,27,401	16,36,535
Subject countries-Imports	MT	1,41,096	2,41,324	3,30,506	4,12,910	5,50,546
Other Countries- Imports	MT	5,47,764	5,31,297	5,06,488	2,77,320	3,69,760
Demand/consumption	MT	31,67,601	34,46,034	36,54,383	28,01,853	37,35,803
Index		100	109	115	118	118

(b) Import Volumes from the subject countries

55. With regard to the volume of dumped imports, the Authority is required to consider whether there has been a significant increase in dumped imports from the subject countries, either in absolute terms or relative to production or consumption in India. The factual position is as follows;

Import Volume	Unit	2016-17	2017-18	2018-19	POI	
					Actual	Annualised
Subject Countries	MT	141,096	241,324	330,506	412,910	550,546
Index		100	171	234	390	390
Subject country-Turkey	MT	15,190	92,251	209,998	178,956	238,607
Subject country-USA	MT	125,906	149,073	120,508	233,954	311,939

Countries with more than 3% Share	MT	380,814	403,379	385,423	226,974	302,633
Other Countries	MT	166,950	127,919	121,065	50,346	67,128
Total	MT	688,860	772,622	836,994	690,230	920,306

56. It is seen that dumped imports from subject countries have increased over the injury period with increase in the POI. Domestic industry has submitted that the imports have increased after cessation of anti-dumping duties which was earlier levied on the import of subject goods from the subject countries.

(c) Subject Countries Imports in relative terms

57. It is seen that the dumped imports in relation to production and consumption increased from 5.40% and 4.45% in the base year to 17.41% and 14.74% respectively, in the POI. Thus, the Authority notes that imports in relation to production and demand, have increased significantly over the injury period. In relation to imports, subject countries imports increased from about 20% in base year to about 60% in the POI.

	Unit	2016-17	2017-18	2018-19	POI	
					Actual	annualised
Production	%	5.40	8.20	10.87	17.41	17.41
Demand including Captive	%	4.45%	7.00%	9.04%	14.74%	14.74%
Gross imports	%	20.48	31.23	39.49	59.82	59.82

F.5. Price Effect of Dumped Imports on the Domestic Industry

58. With regard to the effect of the dumped imports on prices, it is required to be analyzed whether there has been a significant price undercutting by the dumped imports as compared to the price of the like products in India, or whether the effect of such imports is otherwise to depress prices or prevent price increases, which otherwise would have occurred in the normal course. The impact on the prices of the Domestic Industry on account of the dumped imports from the subject countries has been examined with reference to price undercutting, price suppression and price depression, if any. For the purpose of this analysis, the cost of production, net sales realisation, selling price and the non-injurious price (NIP) of the Domestic Industry have been compared with landed price of imports of the subject goods from the subject countries.

(a) Price Undercutting

59. For the purpose of price undercutting analysis, the selling price of the Domestic Industry has been compared with the landed value of imports from the subject countries. It has been contended by the domestic industry that transportation cost forms a very substantial portion of the cost of production in case of subject goods, as (a) the domestic industry is located in the State of Gujarat and the sales have to be made throughout India and (b) given the price of the product, freight cost forms a significant part in the procurement cost of the consumers. The domestic industry has thus contended that the selling price of the domestic industry should be compared with the landed price of imports only after adding the transportation

costs. It is seen that the subject goods are a comparatively lower price product. Thus, the incidence of transportation cost per MT is substantial when compared with the selling price of the product and is likely to impact the price comparability. The Authority considering this claim has determined price undercutting, both, by including freight and excluding freight.

Price undercutting without freight

Particulars	Unit	USA	Turkey
Landed value	Rs. /MT	19,172	18,192
Net sales realization without freight	Rs. /MT	***	***
Price undercutting	Rs. /MT	***	***
Price undercutting	%	***	***
Price undercutting	Range	0-10	10-20

60. It is seen that the import prices from the subject countries have been below the selling price of the domestic industry, thus undercutting the domestic prices.

(b) Price Suppression and Depression

61. In order to determine whether the dumped imports are suppressing or depressing the domestic prices, changes in the costs and prices over the injury period have been compared. The factual position is as follows :

Particulars	Unit	2016-17	2017-18	2018-19	POI
Cost of sales	Rs./MT	***	***	***	***
Index		100	103	110	120
Selling price	Rs./MT	***	***	***	***
Index		100	101	111	111
Landed price of imports-USA	Rs./MT	14,185	13,805	18,067	19,172
Index		100	97	127	135
Landed price of imports-Turkey	Rs./MT	15,538	14,539	16,270	18,192
Index		100	94	105	117
Landed price of imports-Total	Rs./MT	14,331	14,086	16,925	18,747
Index		100	98	118	131

62. It is seen that both cost of sales and selling price increased over the injury period. However, whereas the cost of sales continue to increase in the POI, selling price has increased only very marginal. While cost of sales increased by 10 basis points in the POI as compared to preceding year, the selling price was almost constant. At the same time, though the landed value of imports from subject countries has increased, but it is less than the domestic selling price, thereby, preventing the Domestic Industry to increase its selling price.

F.6. Economic Parameters of the Domestic Industry

63. Annexure II to the Anti-Dumping Rules requires that the determination of injury shall involve an objective examination of the consequent impact of dumped imports on domestic producers of such products. With regard to consequent impact of dumped 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. The Authority has examined the injury parameters objectively taking into account various facts and submissions made.

(a) Production, Capacity, Sales and Capacity Utilization

64. Capacity, production, sales and capacity utilization of the Domestic Industry over the injury period is given in the following table: -

Particulars	Unit	2016-17	2017-18	2018-19	POI	POI(A)
Capacity	MT	1046,000	10,71,000	12,18,500	11,44,500	15,26,000
Indexed		100	102	116	146	146
Production	MT	8,78,326	10,19,514	10,71,986	9,37,514	12,50,019
Indexed		100	116	122	142	142
Capacity Utilization	%	84%	91%	84%	82%	82%
Indexed		100	108	100	98	98
Domestic Sales	MT	8,15,013	9,28,870	9,66,628	7445,89	992785
Indexed		100	114	119	122	122

65. It is seen that

- a. The domestic industry has enhanced capacity. RSPL has started production in the POI with a plant having 500,000 MT, while GHCL has enhanced capacities in 2018-19. The demand for the product has increased over the years. The domestic industry contended that the domestic producers have enhanced capacities in view of the demand of the subject goods.
- b. Production and domestic sales have increased over the injury period in view of demand and addition of capacities.
- c. The capacity utilisation of the domestic industry declined in the POI. However, this could be due to addition of fresh capacities by M/s. RSPL.

(b) Profitability, return on investment and cash profits

66. Profitability, return on investment and cash profits of the Domestic Industry over the injury period is given in the table below: -

Particulars	Unit	2016-17	2017-18	2018-19	POI	POI(A)
Cost of sales	Rs./MT	***	***	***	***	***
Indexed		100	103	110	120	120
Selling price	Rs./MT	***	***	***	***	***
Indexed		100	101	111	111	111
Profit/(Loss) per unit	Rs./MT	***	***	***	***	***
Indexed		100	98	113	88	88
Profit/(Loss) - total	Rs.Lacs	***	***	***	***	***
Indexed		100	111	133	124	124
Profit before Interest and Tax	Rs.Lacs	***	***	***	***	***
Indexed		100	108	128	136	136
Profit before Interest and Tax	Rs./MT	***	***	***	***	***
Indexed		100	95	108	97	97
Cash Profit	Rs.Lacs	***	***	***	***	***
Indexed		100	112	133	137	137
Cash Profit Per Unit	Rs./MT	***	***	***	***	***
Indexed		100	98	112	98	98
Return on Capital Employed-NFA	%	***	***	***	***	***
Return on Capital Employed-NFA	Range	40-50	30-40	20-30	10-20	10-20
Indexed		100	74	51	40	40

67. It is seen that:

- a. While gross cash profit and profit before interest increased over the injury period, it is seen that per unit cash profit and profit before interest shows decline in POI.
- b. Return on Capital Employed has declined in 2018-19 and POI when compared to earlier years.

68. The domestic industry contended that there was continuous decline in the profitability over the investigation period. The trends in import price and selling price of the domestic industry were additionally examined within the investigation period. Further, the profits and ROI of the domestic industry were additionally examined within the investigation period.

S.No.	Month	Import price from subject countries		Selling price of D.I.
		USA	Turkey	
1	Apr-19	17,116	16,463	***
2	May-19	16,722	16,702	***
3	Jun-19	17,610	16,532	***
4	Jul-19	18,313	16,864	***

5	Aug-19	17,879	16,616	***
6	Sep-19	18,212	17,376	***
7	Oct-19	-	16,875	***
8	Nov-19	17,285	16,883	***
9	Dec-19	17,755	16,860	***

	Apr- June 19	July-Sept 19	Oct-Dec 19
Cost of sales	***	***	***
Selling price	***	***	***
Profit/loss per unit	***	***	***
Cash profit/unit	***	***	***
ROCE	***	***	***
ROCE (Range)	20-30	20-30	10-20

(c) Market share in demand

69. Market share in demand over the injury period is given in the table below.

Demand	Unit	2016-17	2017-18	2018-19	POI	POI (Annualised)
Sales of Domestic Industry	%	25.73%	26.95%	26.45%	26.57%	26.57%
Captive Consumption	%	1.78%	1.98%	2.10%	4.98%	4.98%
Sales of Other Indian Industry	%	50.75%	48.64%	48.55%	43.81%	43.81%
Subject countries-Imports	%	4.45%	7.00%	9.04%	14.74%	14.74%
Other Countries- Imports	%	17.29%	15.42%	13.86%	9.90%	9.90%
Demand/consumption	%	100.00%	100.00%	100.00%	100.00%	100.00%

70. It is seen that the share of domestic industry in the market has increased. Market share of domestic industry increased because of new capacities added by the domestic industry. At the same time market share of subject countries have increased in the POI. Share of imports in the domestic market has increased as compared to base year.

(d) Employment, productivity and wages

71. Employment, productivity and wages of Domestic Industry over the injury period is given in the table below.

Particulars	Unit	2016-17	2017-18	2018-19	POI	POI(A)
No of Employees	Nos	2,287	2,270	2,695	2,699	2,699
Indexed		100	99	118	118	118
Wages	Rs. Lacs	10,390	11,448	13,650	11,041	14,721
Indexed		100	110	131	142	142
Productivity	Per Day	2,510	2,913	3,063	3,571	3,571
Indexed		100	116	122	142	142

72. It is noted that the employment with the Domestic Industry has increased over the injury period with the increase in capacity. Wages paid have also increased. Productivity per day has increased with increase in production.

(e) Inventories

73. Inventory position with the Domestic Industry over the injury period is given in the table below:

Particulars	Unit	2016-17	2017-18	2018-19	POI
Average	MT	10,979	9,511	18,887	48,121
Indexed		100	87	172	438

74. It is seen that the inventories with the Domestic Industry have increased in 2018-19 and thereafter in the POI. Even in a situation of increasing demand, inventories with the domestic industry have increased.

(f) Growth

75. It is seen that growth of the Domestic Industry in terms of production and inventories was positive during POI and growth in terms of profits, cash profits and return on investment was negative in the POI.

Particulars	2017-18	2018-19	POI	
			Actual	annualised
Production	16%	5%	17%	17%
Domestic Sales	14%	4%	3	3
Cost of Sales	3%	7%	9%	9%
Selling Price	1%	9%	0%	0%
Profit/Loss per Unit	-2%	15%	-22%	-22%
Inventories	-13%	99%	155%	155%
ROI	-11%	-9%	-5%	-5%
Cash Profit Per Unit	-2%	14%	-11%	-11%

(g) Factors affecting domestic prices

76. The examination of the import prices from the subject countries, change in the cost structure, competition in the domestic market, factors other than dumped imports that might be affecting the prices of the Domestic Industry in the domestic market, etc. shows that the landed value of imported material from the subject countries is below the selling price of the Domestic Industry, causing price undercutting. The price undercutting has led to price suppression in the Indian market. The demand for the subject goods increased over the injury period and therefore it could not have been a factor affecting domestic prices. The Authority concludes that the principal factor affecting the domestic prices is the dumped imports of subject goods from the subject countries.

F.7. Magnitude of Injury and Injury Margin

77. The Authority has determined Non-Injurious Price for the Domestic Industry on the basis of principles laid down in Anti-Dumping Rules read with Annexure III, as amended. The NIP of the product under consideration has been determined by adopting verified information/data relating to the cost of production for the period of investigation. The NIP determined for the Domestic Industry has been compared with the landed price from each of the producers/ exporters from the subject countries for calculating injury margin. The 'all others' rate has been determined based on the facts available with the Authority.

Sl. No	Name of the Producer Company	NIP (\$/MT)	Landed price (\$/MT)	Injury margin (\$/MT)	Injury margin	Injury Margin Range (%)
A.	Turkey					
1	a)ETI Soda Uretim Pazarlama Nakliyat Ve Elektrik Uretim Sanayi Ve Ticaret A.S.	***	***	***	***	Negative
	b)Kazan Soda Elektrik Uretim A.S	***	***	***	***	Negative
	Weighted Average of Ciner Group	***	***	***	***	Negative
2	Türkiye Şişe ve Cam Fabrikaları Anonim Şirketi	***	***	***	***	Negative
3	Any other producer/exporter	***	***	***	***	0-10
B.	USA					
4	Searles Valley Minerals Inc.	***	***	***	***	Negative
5	Tata Chemicals Soda Ash Partners ("TCSAP")	***	***	***	***	Negative
6	Any other producer/exporter	***	***	***	***	Negative

78. The Authority noted the claim of the domestic industry with regard to inclusion of freight has determined injury margin, both, by including freight and excluding freight. However, the Authority has considered the injury margin without adding freight.

G. Threat of material Injury

79. As noted in the initiation notification, the applicants have claimed that imports have increased and are further causing threat of material injury. The claim has been analysed by the Authority in detail, hereunder.

80. Antidumping Rules provide as follows with regard to threat of material injury–

Annexure II Para (vii): A determination of a threat of material injury shall be based on facts and not merely on allegation, conjecture or remote possibility. The change in circumstances which would create a situation in which the dumping would cause injury must be clearly foreseen and imminent. In making a determination regarding the existence of a threat of material injury, the designated authority shall consider, inter alia, such factors as:

(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.

81. Evidence provided by the domestic industry and questionnaire response filed by the responding exporters have been examined.

- a. Imports from subject countries have increased.
- b. The producers in subject countries have established significant capacities and are highly export oriented.
- c. The imports are entering at prices below the level of selling price and thus undercutting the prices of the domestic industry. The price undercutting is causing price suppression in the market.
- d. The price undercutting coupled with surplus capacities with the foreign is likely to increase demand for subject goods in the market.
- e. Inventory level with the exporters as seen from their responses are significant.

82. It is thus seen that imports from the subject countries are further threatening material injury to the domestic industry.

83. From the submissions made by the domestic industry and other interested parties, the Authority notes the following:

- i. Domestic industry has provided evidence showing decline in domestic demand in Turkey and USA. It is also noted from such reports that the Indian market is key to the producer/exporters in the subject countries. Therefore, imports are likely to enter the domestic market in significant volume.
- ii. Evidence has also been provided to show that the capacities in both the subject countries are likely to further enhance.
- iii. Based on data analysed post POI, import analysis from DGCI&S, and selling price as shared by domestic industry, the Authority notes that the import prices are declining continuously, with corresponding decline in selling price of the domestic industry.

- iv. It is also seen that South Africa has extended antidumping duties on imports of Soda Ash for another 5 years on USA in 2019 pursuant to sunset review investigation.

H. NON-ATTRIBUTION ANALYSIS

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

(a) Volume and price of imports from third countries

85. The Authority notes that interested parties have contended that imports from China despite being higher has not been considered. It is noted in this regard that imports from all third countries are either low in volume or high in prices (including China).

(b) Export Performance

86. It is seen that domestic industry is largely in the domestic market. In any case, the Authority has considered the data for domestic operations for its injury analysis.

(c) Development of Technology

87. There is no known material developments in technology over the injury period. Changes in the technology could not have caused claimed injury to the Domestic Industry.

(d) Performance of other products of the company

88. The Authority has considered performance of the domestic industry only in respect of product under consideration. The injury claimed to the domestic industry is only in respect of the subject goods.

(e) Trade Restrictive Practices and Competition between the Foreign and Domestic producers

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

(f) Contraction in Demand and Changes in pattern of consumption

90. It is noted that the demand of the subject goods has increased consistently over the entire injury period. Thus, it is the injury to the Domestic Industry was not due to contraction in demand or changes in pattern of consumption.

91. Arguments raised by other interested parties, that GHCL, an applicant company has made in its 2019-20 Annual Report, regarding suppression in demand due to COVID, have no meaning in the POI of this investigation which precludes COVID.

I. POST DISCLOSURE STATEMENT SUBMISSIONS

Submission of Domestic Industry

92. Domestic industry submits that the NIP revised is significantly low and is in stark difference to the NIP determined at the stage of initiation and provisional findings. There was no reason for the domestic industry to believe that the methodology adopted by the Directorate earlier is incorrect or inapt. In the present investigation, the Authority had issued provisional findings. The domestic industry has not been asked to justify why the NIP should be computed after including entire sales of RSPL. This sudden change has led to an negative injury margin.
93. The negative injury margin is because of exclusion of a significant portion of sale made by RSPL on the grounds of its being captive. Whereas the rules provide for consideration of respective share of “domestic production” for computation of weighted average for the domestic industry as a whole, the “production for domestic sales” has been considered for determination of non-injurious price. In other words, “production for domestic sales” has been treated as “domestic production”.
94. As is provided under Annexure-III, for the purpose of determination of NIP the Rules simply refer to “production” at various instances, with no defined distinction between production meant for sales or captive use. Further, Annexure-II [para (vi)] clearly provides for consideration of “domestic production”. Therefore, production meant for “captive use” needs to be considered for determination of NIP as the captive production is also meant to be used for domestic consumption.
95. The volume of captive consumption of soda ash would have either been used by the producer itself or by the consumer and thus had to be included in determining the domestic consumption. Had RSPL not been integrated, the production of subject goods now being featured as captive would have been featured in domestic sales. However, the producer is vertically integrated and is using it captively. Conversely, if RSPL had not created capacity for soda ash, the requirement of soda ash in the domestic market would have been met by other producers. Thus, in either situation, the volume of captive production would have been included in the “domestic production”.
96. Therefore, it would be seen that the sales being seen as captive, are not actually captive in true sense, as they are also captive sales made to different location which are accounted for and invoiced in the books of records. Further, since the captive sales are booked at market price, the suppressed price in the market is directly impacting the captive market of RSPL. Thus, even the captive market is not insulated from imports.
97. There have been several cases in past wherein the Authority has considered captive production while determining NIP. There are situations when domestic industry may suffer injury because of dumping even in a situation of 100% “captive consumption”. Reference is made in this regard to the antidumping investigations relating to O-Acid, wherein the Govt. had earlier imposed ADD, even though entire O-Acid was consumed by the company itself.
98. The domestic industry invites the attention of the Authority to the report of Appellate Body in the case of United States – Transitional Safeguard Measure on Combed Cotton Yarn

from Pakistan, wherein the Appellate Body found that the definition of domestic industry is product oriented and not producer oriented

99. Sales have been distinguished between “captive” and “merchant” and accordingly market share has been determined separately. However, RSPL “soda ash division” has “sold” the product to its other division. The very fact that market share has been determined both including and excluding captive consumption shows that the DGTR has considered “sales to other division of the company” cannot be ignored.
100. Production has been distinguished (between merchant and sales to other division of the company) only for the purpose of NIP. Production for all other purposes have been considered as production including production meant for sales to other division of the company.
101. Domestic industry submits that freight should be included while determining price undercutting and injury margin. The Authority had considered the argument of freight in the provisional finding and has noted the same in the Disclosure Statement issued, however have not worked out price undercutting and injury margin with freight
102. Applicants refers to the decision of the EC in the matter of anti dumping investigation (the principle holds through for anti subsidy investigation as well) Potassium Permanganate originating in India and the Ukraine wherein the exporter sought allowance of transportation cost from the factory to depot and the same was rejected holding that the plant and depot is part of the same economic and legal entity.
103. From a simple reading of the case, it is evident that if the goods are transferred from the factory to the depot then the goods are to be considered as a part of the inventory. Even as per the accounting standards the freight from the factory to depot is considered as a part of the cost of production and if that is the case then the depot is only an extended factory warehouse and that alone should be considered as the basis of the ex-factory NIP and selling price. Thus, such freight shall be considered while making a fair comparison.
104. Domestic industry refers to India's position before the WTO, which clearly supports the contentions of the domestic industry that the comparison of the imported product price be made with the domestic industry price as close as possible to the point of consumption. When the Govt. of India is advocating before 146 WTO member countries on how to compare domestic and imported product price, what should be the level of prices of the two products, it would be discrimination and unfair against the domestic industry in case the same is not applied by its own Designated Authority.
105. Price undercutting and Injury margin should be determined only considering those import transactions whose landed price of imports is below selling price of the domestic industry. The concern of the domestic industry is against injurious imports and not against non-injurious imports. Reference is made to WTO Report in the matter of European Communities – Anti-Dumping Duties on Malleable Cast Iron Tube or Pipe Fittings From Brazil
106. The principle applied in WTO Report in the matter of European Communities – Anti-Dumping Duties on Malleable Cast Iron Tube or Pipe Fittings from Brazil, for calculating price undercutting also applies on calculation of injury margin. European Union, which also follows the principle of lesser duty rule, determines injury margin after excluding non-injurious export transactions. The practice has not been challenged in the WTO. Thus, while calculating injury margin, the Authority should consider only those transactions that are below non injurious price for calculation of injury margin. Reference is also made to the Hon’ble Tribunal’s order in the matter of Kothari Sugars & Chemicals Limited versus Designated Authority which allowed considering transactions above NIP to calculate injury margin.

Submissions of other interested parties

107. The decision of the Authority not to consider separate analysis of dumping and injury separately for Light Soda Ash and Dense Soda Ash requires kind reconsideration
108. Positive dumping margin in the present matter is the result of a failure to conduct separate analysis for LSA and DSA and positive dumping margins are the result of such improper analysis
109. It is also notable that concerns raised by the exporters on their dumping margin determination are also not addressed by the Authority. The dumping margins also shall be negative if proper determination is made by the Authority after considering all such legitimate contentions of the exporters
110. The facts of the case make it evident that the domestic industry did not suffer any injury on account of imports of subject goods from subject countries
111. Even though the market share of the imports has increased, the imports have been taking at a fair price. The volume parameters of the DI have shown tremendous growth over the years. Even though the profitability declined slightly by the POI, the ROCE still remained in the range of 10-20%, which should be noted as a reasonable return on a widely used industrial input like Soda Ash
112. The proposal of the Authority to consider the injury margin without adding freight is as per the Rule and the claims of the petitioners to the contrary are illegal. The claims for inclusion of freight in NIP, NSR etc have been made in various investigations and the Authority have consistently upheld that freight cannot be included for the purpose of injury margin in view of Annexure III to the Rules and a similar view is justified in the present case also
113. The stories of threat of material injury are totally baseless and should be please junked by the Authority. Also, the present case has been initiated based on claims of material injury and when the claim stands unsubstantiated, the contention of threat of material injury has meaning. The data suggests any imports in the future also shall be at non-injurious levels and such fair imports should not be subjected to any ADD
114. In the present investigation, the Authority has not checked the quantum of imports made by Nirma and Tata, for the revised period under investigation, to check their eligibility under Rule 2(b) read with Rule 5. We humbly request that since such exercise was not done by either applicant industry and also by the Authority, it is submitted that the oral hearing conducted by the Authority, cannot be said to be effective and in terms of Rule 6. This is without prejudice to the submission that the Designated Authority exceeded his jurisdiction by initiating the present case without fulfilling preconditions of Rule 5 read with Rule 2(b).
115. Terminate the investigation, as the application filed by applicant is not in line with the Trade Notice No. 10/2018 dated 7th September 2018.
116. Confirm the conclusion reached by the Authority in the instant investigation that there is no injury to the applicant industry with respect of the imports from cooperative exporters from subject countries.
117. The Authority should not recommend any anti-dumping duties against cooperative exporters from the subject countries, as the injury margin is negative. This approach is in line with the obligation of the Authority under Rule 4(d) and 17(1)(b) of the ADD Rules.
118. We also submit that in the event, the domestic producers furnish any new or additional information at this stage which may result into change in injury margin, the same may kindly be provided to us so that we are in a position to offer our comments on the same.
119. Without prejudice to above, it is humbly submitted that the Authority may in any case incorporate and/or deal with the issues raised by us but have not been incorporated and/or dealt with in the disclosure statement issued by the Authority.

120. The Designated Authority has taken total imports from the USA as base to assess whether imports from the other two domestic producers i.e. M/s Tata Chemicals Ltd. and M/s. Nirma Ltd are significant. The past decisional practice of the Designated Authority demonstrates that the assessment of imports by a domestic producer is undertaken in comparison to the total domestic production and/or total imports of the PUC. There is no reason to deviate from the previous decisional practice and consider a significantly lower base of volume of the imports from the USA.
121. The Designated Authority is requested to provide the share of imports by these two domestic producers (after applying correct bases as stated above) in narrow ranges so as to offer a meaningful and effective opportunity to interested parties to respond. Accordingly, we request the Designated Authority to re-circulate a revised disclosure statement after taking into account the above comments.
122. Designated Authority has made no attempts to address HUL's arguments regarding the Domestic Industry's claims of excess confidentiality and failure to comply with Trade Notice No. 10/2018.
123. HUL notes that the Designated Authority has determined negative injury margin for all participating producers from the subject countries. HUL expects that these facts will continue to be true for the final findings to be issued by the Designated Authority.
124. Accordingly, the issue of form of duty is now moot. Without prejudice to the above, in the event any duties are recommend in the final findings, HUL requests that the Designated Authority provide reasons for recommending a particular form of duty
125. Without prejudice, if the Authority has indeed intended to calculate price undercutting through including freight cost, it would not only be inconsistent with past decisional practice of the Authority but also an unfair comparison resulting into skewed injury analysis. HUL reiterates its objections, as submitted in prior submissions, to inclusion of freight cost in price undercutting analysis
126. Designated Authority has not taken into consideration HUL's detailed submissions regarding there being no threat of material injury in section E of the Preliminary Submissions, section B of the Written Submissions and section C of the Rejoinder Submissions. As a quasi-judicial body, the Designated Authority must address all arguments of the interested parties and provide reasons for accepting and rejecting the same. HUL reiterates the key points from its previous submissions on threat of material injury and submits that Designated Authority's conclusion on the same is incorrect for the following reasons:
 - (i) The Domestic Industry's argument for likelihood of substantial increase is unsubstantiated and erroneous as it relies on imports data, which goes from Turkey as 2008 – 09 and for USA as 2006 – 07.
 - (ii) The alleged sufficient freely disposable capacity in the subject countries are not likely to flow to India as the percentage share of exports to India from the subject countries are negligible.
 - (iii) The subject imports do not cause any price suppression or depression as evident from paragraph 60 of the Disclosure Statement, where import price from the subject countries increased, but the Domestic Industry did not increase selling price despite the increase in cost of sales.
 - (iv) Domestic Industry has failed to provide any evidence with respect to inventories of the subject goods.
 - (v) With respect to decline in demand in the subject countries and such imports are likely to enter Indian market, HUL clarifies that the evidence relied upon by the Domestic Industry has itself revealed that such decline in demand is global and

volumes of exports by the producers from the USA and Turkey have come down during the COVID-19 period.

- (vi) The post-POI data examined to assess decline in prices from subject countries goes far beyond 6 months after the POI and no explanation has been offered by the Domestic Industry for such alleged decline in prices.
- (vii) With respect to evidence of significant capacities in subject countries, HUL has explained that such capacities are unlikely to flow to India for the reasons explained in point (iii) above.
- (viii) Lastly, extension of anti-dumping duties in South Africa on the subject goods from USA has no bearing on the present investigation.

127. Similar to the Designated Authority's approach on threat of material injury, the Designated Authority has not considered a single argument on non-attribution or break in causal link by interested parties including HUL

Examination by the Authority

128. The Authority notes that NIP of individual applicant as well as weighted average NIP of the applicants as a whole has been computed as per the practise followed by the Authority consistently. However, M/s RSPL transferred major of its production to their other units for captive use and sold only *** MT out of *** MT during the POI. The information was neither made available at the time of initiation nor at preliminary findings. Therefore, the NIP recommended at those occasions were different. The reasons of different weighted average NIP computed in the final determination from initiation and preliminary finding has also been communicated to the domestic industry through email dated 11.01.2021
129. The Authority notes the submissions of the domestic industry regarding consideration of captive consumption while determining NIP and holds that the anti-dumping investigation concerning import of O-acid from China PR is altogether a different investigation based on different facts and figures than the present investigation. The case was related to material retardation where applicant alleged that O-acid is being dumped from China PR with an intention to destabilize the newly established production capacities of O-acid in India. The intensive dumping of O-acid was creating such a situation where the applicant was not able to sell their product in the domestic market/open market. The domestic industry had made a lot of investment to backward integrate the product Ofloxacin. Since this was the only and new production facility created by the applicant in India to make its own supply continuous for captive as well as selling in the domestic market due to intentional dumping by the exporter the future sustainability of the unit was in question. Therefore, to protect the newly established capacity under material retardation, NIP was calculated as provided under Rules.
130. The applicant has stated that they have transferred the PUC from one unit to another through proper invoices. Thus, it is domestic sales and should be considered for computation of weighted average NIP. The Authority notes that PUC is transferred from one unit of the applicant to another for its captive consumption. The price of PUC transferred for captive consumption is determined by the applicant without any influence of demand and supply of PUC in the open market. Therefore, alleged dumping of PUC in the open market does not influence the price and consequent injury claimed.

131. The Authority notes the submissions regarding separate analysis for light and dense soda ash and re-iterates that the Authority that since the cost and price difference between light and dense soda ash is minimal, no separate analysis is warranted as also done in past investigations pertaining to the PUC.
132. Regarding the contention of the cooperative producers/exporters for consideration of entire domestic sales even to related entities by undertaking the OCT Test for ordinary course of trade, the Authority holds that the OCT Test is relevant both for related and non-related entities as far as the sales are to be established primarily in ordinary course on aspect of profitability of sales (The 80-20 test). Even though both related and non-related sales may meet this test, the issue of related party sales being at arms-length when compared with non-related party sales on aspect of price difference still needs to be established with appropriate evidence and justification. The producers/exporters argument to only consider OCT does not meet the requirement of establishing sales to related party at arms-length. The Authority therefore confirms the methodology adopted in the Preliminary Finding.
133. As regards the contentions on domestic industry standing, the Authority notes Rule 2 (b) of AD Rules clearly states that the 'domestic industry' means the domestic producers as a whole engaged in the manufacture of the like article and any activity connected therewith or those whose collective output of the said article constitutes a major proportion of the total domestic production of that article except when such producers are related to the exporters or importers of the alleged dumped article or are themselves importers thereof in such case the "domestic industry" may be construed as referring to the rest of the producers. It is seen that exports made by the affiliate parties is significant. Therefore, Tata Chemicals and Nirma Ltd are treated as ineligible domestic industry of subject goods in India
134. As regards submissions regarding evaluating injury margin after inclusion of freight, the Authority holds that such assessment requires complete data which needs to be comprehensively evaluated and requires a generic policy decision. The consistent practice of Authority for injury margin assessment is to compare landed value (without freight) with the NIP on an equivalent level of comparison. The same methodology has been adopted in this case. Further NIP has been determined as per annexure 3 of AD Rules and comparison of landed value with NIP has been done for the entire POI.
135. The Authority notes that the petitioner has claimed injury both on account of material injury and also threat of injury. In the preliminary determination wherein material injury during POI was noted in form of a positive injury margin and the Authority, taking note of threat of injury by the declining trend of landed price in POI contrary to the cost of production trend in POI, had proposed reference price mechanism of anti-dumping duty to address the same. However, in the final finding the Authority has concluded that the injury margin is negative in respect of all producers/exporters of USA and the cooperative producers/exporters of Turkey. The Authority has thus considered and addressed the issue of both forms of injury appropriately in the final finding as well.
136. The Authority notes that the petitioner is requesting to zero out injury margin for non-injurious transactions. The Authority has adopted its consistent methodology for comparison of NIP with Landed Value to determine the Injury Margin evaluated for the entire POI.

L. INDIAN INDUSTRY'S INTEREST & OTHER ISSUES.

137. The Authority notes that the purpose of anti-dumping duties, in general, is to eliminate injury caused to the domestic industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the Country. Imposition of anti-dumping duty would not restrict imports from the subject countries in any way, and, therefore, would not affect the availability of the products to the consumers.
138. It is recognized that the imposition of anti-dumping duty might affect the price levels of the product under consideration and downstream goods manufactured using the product under consideration. This might consequently have some effect on the relative competitiveness of the downstream products. However, since levy of an anti-dumping duty is restricted to the amount necessary to redress the injury to the domestic industry, fair competition in the Indian market will not be reduced by the anti-dumping measure. Imposition of anti-dumping measure would remove the unfair advantages gained by dumping practices, prevent the decline in the performance of the domestic industry and help maintain availability of wider choice to the consumers of the product under consideration.

M. CONCLUSION

139. Having regard to the contentions raised, information provided, and submissions made by the interested parties and facts available before the Authority as recorded in these final findings and on the basis of the above analysis, the Authority concludes that:
- a. The product under consideration has been exported to India from the subject countries below its associated normal value, thus resulting in dumping.
 - b. Injury both material and threat due to dumping of the product under consideration from the subject countries has been evaluated. Further, the margin of injury has been evaluated for the cooperative and non-cooperative producers/exporters for imposition of applicable Anti-Dumping duties where warranted and as stated in the recommendation below.

N. RECOMMENDATION

140. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the exporters, importers and other interested parties to provide positive information on the aspect of dumping, injury and causal link. Having initiated and conducted the investigation into dumping, injury and causal link in terms of the provisions laid down under the Rules and having established positive dumping margin and further having evaluated material injury to the domestic industry caused by such dumped imports, the Authority is of the view that imposition of definitive antidumping duty is required to offset dumping and injury only against non-cooperative producers/exporters of Turkey and not on cooperative producers/exporters of Turkey. Also, the measure is not recommended on any of the producers/exporters of USA. The Authority, in view of above, recommends imposition of anti-dumping duty on imports of subject goods in the form and manner described here under.
141. The Authority recommends imposition of definitive anti-dumping duty equal to the lesser of margin of dumping and margin of injury, so as to remove the injury to the domestic

industry as stated in the table below. Noting the fact that landed price of subject goods shows declining trend in POI contrary to the cost of production trend in POI, the Authority, therefore, considers it appropriate to recommend imposition of the anti-dumping duty on the basis of Reference/Benchmark Price on the imports of the subject goods, originating in or exported from Turkey, from the date of notification to be issued in this regard by the Central Government. Reference Price is computed as "Landed Value + Lower of [(1) Dumping Margin and (2) Injury Margin]". The anti-dumping duty shall be equal to the difference between the Reference Price indicated in column 7 of the table below and the landed value. The landed value of imports for this purpose shall be assessable value as determined by the Customs under Customs Act, 1962 and applicable level of custom duties except duties levied under Section 3, 3A, 8B, 9, 9A of the Customs Tariff Act, 1975.

DUTY TABLE

S.No	HS Code*	Description of goods	Country of origin	Country of Export	Producer	Reference Price	Unit	Currency
-1	-2	-3	-4	-5	-6	-7	-8	-9
1	2836.20	Soda ash (Disodium Carbonate)	Turkey	Any country including Turkey	Any producer other than: i. ETI Soda Uretim Pazarlama Nakliyat Ve Elektrik Uretim Sanayi Ve Ticaret A.S. ii. Kazan Soda Elektrik Uretim A.S iii. Türkiye Şişe ve Cam Fabrikaları Anonim Şirketi	242.35	Metric Tonne	US\$

O. FURTHER PROCEDURE

142. An appeal against the order of the Central Government that may arise out of this recommendation shall lie before the Customs, Excise and Service tax Appellate Tribunal in accordance with the relevant provisions of the Act.



(B.B. Swain)

Special Secretary and Designated Authority