

GOVERNMENT OF INDIA  
MINISTRY OF COMMERCE & INDUSTRY  
DEPARTMENT OF COMMERCE  
DIRECTORATE GENERAL OF ANTI-DUMPING & ALLIED DUTIES

NOTIFICATION

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NEW DELHI  
the 7th July, 2011

**FINAL FINDINGS**

(Mid Term Review)

**Sub:- Final Findings of Mid Term Review of anti dumping duty imposed on imports of Caustic Soda originating in or exported from Saudi Arabia, Korea RP and United States of America.**

**15/2/2010-DGAD** – Having regard to Customs Tariff Act, 1975 as amended from time to time (hereinafter referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules thereof, as amended from time to time (hereinafter referred to as the AD rules).

**A Background of the Case**

The Authority, having regard to the Customs Tariff Act, 1975, as amended from time to time (hereinafter referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended from time to time, (hereinafter referred to as the AD Rules); recommended imposition of Anti Dumping duty on the imports of Caustic Soda (hereinafter also referred to the subject goods) originating in or exported from Saudi Arabia, Korea RP and USA (hereinafter also referred to as the subject countries) falling under Sub-heading 2815. The sunset review final findings notification for China PR and Korea RP issued by the Authority was published vide notification No.15/11/2007-DGAD - dated 22.11.2008. Sunset review final findings in respect of Saudi Arabia, Iran, Japan, USA and France was notified vide notification no. 15/29/2004-DGAD dated the 1<sup>st</sup> August, 2006. The Authority initiated the Mid Term Review of the said definitive anti dumping duty vide notification no. 15/2/2010-DGAD dated 8.6.2010. The petition in the original case was filed by Alkali

Manufacturers' Association of India on behalf of domestic industry and Mid Term Review petition has also been filed by Alkali Manufacturers' Association of India on behalf of domestic industry.

**B. Procedure**

2. The procedure described below has been followed in the present investigation:
  - a. The Authority received a duly substantiated application from Alkali Manufacturers' Association of India for review, modification of the form of duty and enhancement in the quantum of anti dumping duty in force, *inter alia*, based on the grounds that the product continued to be exported at dumped prices, which was causing injury to the domestic industry and the existing duty is not sufficient to address the injury to the domestic industry. The petitioner submitted *prima facie* evidence in this regard, requesting for midterm review investigation and modification of the form of anti dumping duty in force
  - b. Having been satisfied that the petitioner has produced sufficient information substantiating the need for a review, the Authority initiated the mid-term review investigation of anti-dumping duty imposed on imports of subject goods originating in or exported from subject countries vide Notification No. 15/2/2010-DGAD dated 8<sup>th</sup> June 2010 in accordance with Section 9A (5) of the Act, read with Rule 23 of the AD Rules.
  - c. The scope of the present review covers all aspects of the previous notification.
  - d. The Embassy of the subject countries in New Delhi was informed of the initiation of the investigations in accordance with Rule 6(2).
  - e. The Authority provided copies of the non-confidential version of the application to the known exporters and the Embassy of subject countries in accordance with Rules 6(3) supra. A copy of the non-confidential application was also provided to other interested parties, wherever requested.
  - f. The Authority forwarded a copy of the public notice to the following known exporters (whose names and addresses were made available to the Authority) and gave them opportunity to make their views known in writing within forty days from the date of the letter in accordance with the Rules 6(2) & 6(4).

- Hanwa Corporation, Korea RP
- Tricon Energy Ltd., United States of America,
- Saudi Basic Industries Corporation, Saudi Arabia
- Saudi Petrochemical Company, Saudi Arabia
- Shell Trading (M.E) Pvt Ltd., Saudi Arabia
- DC Chemicals Limited, Korea RP

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

- Hanwa Chemical Corporation, Korea RP
- Tricon Energy Ltd., United States of America,
- Saudi Petrochemical Company, (SADAF), Saudi Arabia
- Shell Trading (M.E) Pvt Ltd., U.A.E.
- Petrochem Middle East FZE, U.A.E.

h. The Authority forwarded a copy of the public notice to all the following known importers (whose names and addresses were made available to the authority) of subject goods in India and advised them to make their views known in writing within forty days from the date of issue of the letter in accordance with the Rule 6(4).

- a) Abhay Chemical Limited
- b) Albright Wilson Chemicals Limited
- c) Arvind Mills Limited
- d) Central Pulp Mills Limited
- e) Deepak Nitrite Limited
- f) Godrej Soaps Limited
- g) Gujarat Narmada Fertilizers & Chemicals Limited
- h) Gujarat State Fertilizer & Chemicals Limited
- i) Indian Farmer Fertilizer Co.Op Limited
- j) Indian Oil Corporation Limited
- k) Jaysynth Dyeschem Limited,
- l) Link Pharma Ltd.
- m) Meghmani Organics Limited
- n) Narmada Chemature Petrochemicals Ltd.
- o) Nirma Limited
- p) Pab Chemicals (P) Limited
- q) Rama News Prints & Papers Limited,
- r) Rubamin Limited
- s) Sabero Organics Ltd.
- t) Torrent Gujarat Biotech Limited
- u) Transpek Silox Industries Limited
- v) National Aluminium Company Ltd

- w) Cynaides and Chemicals Company,
- x) Hitsu Industries Limited
- y) Adani Exports Limited
- z) Libra Foams
- aa) Shri Ramachandra Straw Products Limited
- bb) Bilag Industries Pvt Ltd.
- cc) Daruala Organics Limited
- dd) CJ Shah & Co.
- ee) Harish Kr & Co.
- ff) Hindustan Link & Resin Limited
- gg) Hindustan Lever Limited

i. The following importers responded to the notice of initiation.

- a) Vedanta Aluminum Limited.
- b) Hindalco Industries Limited.

j. Following association has responded:

Aluminium Association of India

- k. The Authority kept available non-confidential version of the evidence presented by various interested parties in the form of a public file maintained by the Authority and kept open for inspection by the interested parties as per Rule 6(7).
- l. Exporters, producers and other interested parties who have not responded to the Authority, nor supplied information relevant to this investigation have been treated as non-cooperating interested parties.
- m. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of imports of subject goods for the past three years, including the period of investigations, which was received by the Authority.
- n. Information was sought from the domestic industry to determine non-injurious price based on the cost of production and cost to make and sell the subject goods in India on the basis of Generally Accepted Accounting Principles (GAAP) to ascertain whether Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to Domestic Industry.
- o. The Authority held a public hearing on 22.02.2011 to hear the interested parties orally. The interested parties present at the time of

hearing were advised to file written submissions of the views expressed orally and were also given an opportunity to file rejoinder to the views expressed by other interested parties. The written submissions and rejoinders received from interested parties have been examined in these findings, to the extent considered relevant.

- p. On the spot verification of the data provided by the domestic industry and M/s Hanwha Chemical Corporation, Korea RP, Shell Trading (M.E) Pvt Ltd. and Petrochem Middle East, FZE was carried out to the extent considered necessary.
- q. In accordance with Rule 16 of the Rules supra, the essential facts that would form the basis of final findings were disclosed to known interested parties. Comments received on the same have been duly examined in Final Findings.
- r. Investigation has been carried out for the period starting from 1<sup>st</sup> October, 2008 to 31<sup>st</sup> December 2009 (also referred to as the period of investigation or POI). The examination of trends in the context of injury analysis covered the period from April 2006–March 2007, April 2007–March 2008 April 2008–March 09, and the POI.
- s. \*\*\* in this notification represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
- t. The exchange rate for the POI has been taken as Rs. 49.10=1 US\$

#### **C. Product under consideration and like article**

- 3. The product under consideration in the present case is "Caustic Soda" originating in or exported from Saudi Arabia, Korea RP and USA. Caustic soda is chemically known as NaOH. Caustic soda is a soapy, strongly alkaline odorless liquid widely used in diverse industrial sectors, either as a raw material or as an auxiliary chemical. Caustic soda is produced in two forms – lye and solids. Solids can be in the form of flakes, prills, granules or any other form.
- 4. Caustic soda is used in the manufacture of pulp and paper, newsprint, viscose yarn and staple fiber, aluminum, cotton, textiles, toilet and laundry soaps, detergents, dyestuffs, drugs and pharmaceuticals, vanaspati, petroleum refining etc.
- 5. Caustic Soda being is an inorganic chemical and is categorized under Chapter 28 of the Customs Tariff Act, 1975

under subheading no. 2815. The classification is however indicative only and has no binding upon the scope of product under consideration.

6. Caustic Soda is produced in three processes, diaphragm, mercury and membrane. However, the final product from the each process produced contains similar physical and chemical characteristics.

Submissions of the Domestic Industry

7. The present investigation being the mid term review, the scope of the product under consideration must remain same as that in the original investigation.

Submissions of the exporter/ producer

8. DG Safeguard investigation was based on lye alone, whereas the anti-dumping investigation is based on lye and flakes.

Examination by the Authority

9. The present investigation is a review investigation concerning Anti dumping duties already in force on imports of Caustic Soda on the basis of recommendations earlier made by the Authority. The scope of PUC in the Director General (Safeguards)'s findings is not relevant for the present investigation concerning Anti dumping duty.
10. The Authority notes that the scope of the product under consideration remains the same as that of the original investigation.
11. The Authority notes that there is no significant difference in subject goods produced by the Indian industry and exported from subject countries. Even though the product is produced through different process, the subject goods produced by the Indian industry and that imported from subject countries are comparable in terms of characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers are using the two interchangeably. None of the opposing interested parties has raised any objection in this regard. Subject goods produced by the petitioner companies

are being treated as like articles to the subject goods imported from subject countries in accordance with the anti-dumping Rules.

**D. Domestic Industry and Standing**

12. Rule 2 (b) of the AD rules defines domestic industry as under:

*2(b) "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 term 'domestic industry' may be construed as referring to the rest of the producers only*

13. The application was filed by Alkali Manufacturers' Association of India (AMAI). The application was filed by the association on behalf of the following domestic producers, who provided relevant information.

- a. Gujarat Alkalies & Chemicals Limited
- b. Grasim Industries Limited
- c. DCM Shriram Consolidated Limited
- d. SIEL Industrial Complex
- e. Bihar Caustic & Chemicals Limited

14. The following companies supported the petition filed by AMAI.

- a. Reliance Industries Limited
- b. Kanoria Chemicals & Industries Limited
- c. Gujarat Fluorochemicals Limited
- d. Solaris Chemtech Limited
- e. DCW Limited
- f. Jayshree Chemicals Limited

15. Post initiation, Solaris Chemtech Limited and DCW Limited also provided their injury information. However, the interested parties, during the course of oral hearing, objected to addition of information from more domestic producers after initiation and urged the Authority not to consider their information for injury assessment. Considering the objection raised by the opposing interested parties and considering

the fact that the injury information was submitted by the aforesaid two companies belatedly, the Authority decided not to consider the information filed by DCW Ltd. and Solaris Ltd. and informed the interested parties about the same.

16. Authority notes that the companies who provided their injury data during initiation collectively account for a major proportion of total Indian production. The petition, therefore, satisfied the requirements of standing under the Rules. Further, the participating companies constitute “Domestic Industry” within the meaning of the Rules.
17. The interested parties have argued that the petitioner has changed composition of domestic industry in every case. The Authority observes that there is no barrier in this regard under the law. Nor any interested party has established that this has in any way prejudiced the present investigation.

**E. Confidentiality**

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

**F. Submissions and issues raised**

19. The Authority notes that the following producers/exporters from subject countries have filed response to the exporters' questionnaire :-

Name of the company	Status
Hanwha Chemical Corporations, Korea RP	Producer
Tricon Energy Ltd., U.S.A.	Exporter
SADAF, Saudi Arabia	Producer
Shell Trading (M.E) Pvt Ltd., UAE	Trader
Petrochem Middle East, FZE, UAE	Exporter

20. Further, M/s Hindalco Industries Limited and Vedanta Aluminium Limited have responded to the Designated Authority and provided the information relevant to the present investigation.

21. Submissions made by the interested parties have been appropriately addressed/ examined in the present findings.

**G. Post-Disclosure comments of interested parties:**

22. The following are post-disclosure submissions of interested parties:-

- i) Arguments with regard to standing of the petitioner and scope of the Domestic Industry; grouping, ungrouping and regrouping of countries, low demand of Chlorine, overstated import data have been repeated.
- ii) Insufficient time given to file comments on Disclosure statement.
- iii) Constructed Normal Value should be disclosed
- iv) Complete chain of exports to be specified: SADAF – STME – Petrochem Middle East.
- v) Exporters have reiterated the submissions with regard to product under consideration, selection of domestic industry, geographical imbalance, treatment of Chlorine as a co-product, import data variation, lye and flake not being like products, and injury being caused by imports from other countries.
- vi) Hanwha Corporation is related entity of Hanwha Chemical, Hanwha Chemical Corporation. Both Companies are part of Hanwha group. Exports sales are through trading companies. Designated Authority has separately provided dumping margin for middleman entity through which imports had been made.
- vii) Domestic industry is selling above non-injurious price.
- viii) Causal Link: Haphazard cumulating of subject countries will lead to contradictory and distorted analysis in sunset review of Saudi Arabia, Iran, Japan, US and France.
- ix) Designated Authority rightly followed certain parameters such as raw materials etc in determining non-injurious price. Designated Authority failed to provide the methodology adopted for calculating the return on capital employed.
- x) Designated Authority has worked out non-injurious price separately for flakes and lye. There is no rationale for recommending separate duties for both the grades. Dumping margin has been worked on the methodology prescribed under Product under Consideration and it is requested the same methodology ought to be followed for injury analysis as well.
- xi) Importer has repeated its arguments on account of standing of the Domestic Industry; grouping, ungrouping and regrouping of countries; overstated import data; less production and production capacity due to decline in price and low demand of

chlorine; selection of period of investigation, inability of the domestic industry to supply the goods, high cost of power in India, calculation of Dumping Margin.

xii) Anti Dumping Duty on United States of America needs to be withdrawn and no causal link.

**Post disclosure comments of the petitioner**

- (i) Domestic price of Hanwha Chemical Corporation in Korea cannot be so low as to lead to negative dumping margin.
- (ii) Petitioner has strong suspicion that the data has not been adequately disclosed by the exporter. Further, it is possible that the data includes sales to related parties which might be materially below the selling price to unrelated parties.
- (iii) Expenses of the entire sales channel must be deducted. Since Hanwha Corporation is involved in export transactions to India, the SGA and profit of Indian office of Hanwha Corporation need to be adjusted from export price.
- (iv) Since Hanwha Corporation has not filed any questionnaire response, the sales channel is incomplete.
- (v) Non Injurious Price has not been correctly determined.
- (vi) As regards form of duty, anti dumping duty may be imposed in the fixed form.
- (vii) Petitioner has submitted that the Authority may consider captive inputs at their market value.
- (viii) Consideration of gross fixed assets or alternatively net fixed assets at their present market value for determination of NIP.

**Examination by Authority:**

**Examination by Authority:**

23. The Authority has examined the above issues as under:-

- i) As regards the submission regarding grouping, ungrouping and re-grouping of countries and changing composition of petitioner in different investigation, the Authority finds that the same is not barred under the law/Rules. As regards overstated import data, the Authority notes that IBIS data duly revised and rationalized has been relied upon in these findings. As regards Chlorine factor in injury analysis, the Authority notes that chlorine has been treated as a by-product/joint product, as per the cost records maintained by the interested parties. This has

been the consistent practice of the Authority in all the previous investigations concerning the subject goods hitherto conducted. The Authority also notes that the CESTAT order in this regard has been appealed against in Hon'ble Supreme Court and the matter has since been stayed by Hon'ble Supreme Court.

- ii) Normal Value in respect of Saudi Arabia has been constructed on the basis of international price of raw materials and most efficient consumption norms and conversion cost available on record. To the total cost of production so arrived, 5% profit has been added to arrive at normal value at ex-factory level.
- iii) Considering the time constraints, adequate time was given to all interested parties to comment on the Disclosure statement.
- iv) The Authority notes that export transaction has taken place in certain cases in a chain. Accordingly, expenses incurred at the level of various intermediary companies including traders have been duly accounted for/adjusted in the determination of normal value and export price. The entire chain is also reflected in the Duty Table.
- v) The issues relating to product under consideration, selection of domestic industry, geographical imbalance, treatment of Chlorine as a co-product, import data variation, lye and flake not being like products, and injury being caused by imports from other countries have duly been examined in the Disclosure statement. As regards import data variation, the Authority has considered the data reported by IBIS after rationalization of original IBIS data relating to volume so as to arrive at the volume in terms of DMT on the basis of prevalent price/DMT. In this regard, it is stated that the original IBIS data in respect of four countries namely Korea RP, Norway, Taiwan and Thailand showed unrealistic and abnormally low per unit price which suggested that the volume from these countries as captured by IBIS is in LMT, and not in DMT. This required a revision/rationalization of import volumes in respect of the said countries. Accordingly, the total import volume of 3,71,157 DMT has been arrived at on the basis of IBIS data.
- vi) The profitability for Lye and Flake, under the injury parameters, has been separately determined and in both the forms of the subject goods there is a decline in profitability.
- vii) The submission that the net selling price is above non injurious price is factually incorrect.

- viii) Methodology adopted for determination of non injurious price, including return on capital employed, was disclosed in the Annexure IV of the disclosure statement.
- ix) Domestic selling price of Hanwha Chemical Corporation in Korea and the adjustments thereon have been duly verified from the relevant records maintained by the company. The Authority has the domestic selling prices on the basis of duly verified data. As regards possible domestic sales to affiliated parties by Hanwha Chemical Corporation, it is noted that sales to affiliated parties are too insignificant volume-wise *vis-a-vis* the total domestic sales. Moreover, the selling price to the affiliated parties are found in the same price range as the price to the non-affiliated parties.
- x) The Authority has duly adjusted the expenses incurred at each channel of the export chain to arrive at the net export price. It has also been duly indicated at appropriate places in this Findings.
- xi) Hanwha Corporation is neither the producer nor the exporter of the subject goods in the present case. It is only a trading arm of Hanwha Chemical Corporation (HCC) which is the producer of the subject goods. The export transactions to India have been made at the end of Tricon Energy Ltd., USA. Both HCC (producer) and Tricon Energy Ltd. (exporter) have furnished the requisite questionnaire response. Therefore, non submission of exporter's questionnaire response does not render the sales channel incomplete.
- xii) Non Injurious Price (NIP) has been determined by the Authority on the basis of AD Rules in force. Details of methodology followed in determination of NIP have been indicated in the disclosure statement.

#### **G. Dumping and Dumping Margin**

24. According to Section 9A(1)(c) of the Customs Tariff Act, 1975, the following shall form the basis for determination of normal value in the exporting countries.

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

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

### **Normal Value**

#### **Saudi Arabia**

25. The Authority notes that only one producer/exporter, namely, SADAFA has submitted the exporters' questionnaire's response. However, the said response is found to be deficient in as much as it did not contain Appendix-1 furnishing information in respect of their home market sales which is vital for determination of normal value. However, operating statistics in Appendix-3 of SADAFA's response reported SABIC sales under domestic market column and no response has been received by the Authority from SABIC. In the absence of Appendix-1 in SADAFA's response, the Authority is not in a position to ascertain normal value for SADAFA based on home market sales. On the other hand, SADAFA has requested to

determine normal value on the basis of their cost of production. However, under the law, normal value cannot be determined on the basis of cost of production in the country of origin when sales of the like articles in the domestic market of the exporting country have been reported in Appendix-3. The Authority notes that clarification was sought from SADAFA in regard to their home market sales and Appendix-3 submitted by them and the apparent contradiction in their submissions. However, no clarification has been received in this regard from SADAFA's end. On the other hand, information regarding domestic market price of the subject goods for Saudi Arabia is not available from Harriman Chemsult publication which the Authority has proposed to rely upon in respect of non-cooperative exporters of other subject countries in the present investigation. In the circumstances, the Authority has constructed normal value for all producers/exporters of Saudi Arabia on the basis of best information available on record. Thus, the normal value has been determined at USD \*\*\*.

**U.S.A.**

26. The Authority notes that no producer from USA has submitted exporters' questionnaire response. Therefore, the Authority has relied upon the information available with it. The Authority proposes to consider the price reported by Chlor-Alkali (published by Harriman Chemsult) as a reliable indicator of the prevailing prices of caustic soda in the domestic markets in various countries/territories including North America. Accordingly, the Authority adopts the price information from Chlor-Alkali and determines normal value for all producers/exporters of U.S.A. at US \$ \*\*\*/DMT.

**Korea RP**

**M/s. Hanwha Chemical Corporation (HCC)**

27. The Authority notes that one producer/exporter namely, M/s. Hanwha Chemical Corporation (HCC) has submitted exporters' questionnaire response reporting, inter-alia, their home market sales and adjustments thereon on account of transportation cost, credit cost, insurance and discount. Appendix-1 of HCC's response relating to home market sales has been duly verified and the Authority finds that 5,29,290 MT of subject goods have been sold in the home market during the POI and per unit invoice value is US \$ \*\*\*/DMT. Total adjustments claimed on inland freight, insurance,

discount and credit cost to the tune of US \$ \*\*\*/DMT are verified. Accordingly, normal value on the basis of domestic selling price at ex-factory level is determined at US \$ \*\*\*/DMT for M/s. Hanwha Chemical Corporation.

**Non-cooperative producers/exporters**

28. The Authority notes that no other producer/exporter from Korea RP has submitted exporters' questionnaire response. Therefore, normal value for the residual category from Korea RP has been determined on the basis of information available on record. In this regard, the Authority considers the price reported by Chlor-Alkali (published by Hariman Chemsult) as a reliable indicator of the prevailing prices of caustic soda in the domestic markets in various countries/territories including Korea RP. Accordingly, the Authority adopts the price information from Chlor-Alkali and determines normal value for all producers/exporters of Korea RP at US \$ \*\*\*/DMT.

**Export Price**

**Korea RP**

**Export price for M/s. Hanwha Chemical Corporation (HCC) and Tricon Energy Ltd., USA**

29. The Authority notes that M/s. Hanwha Chemical Corporation (HCC) has exported the subject goods through Tricon Energy Ltd., USA which has submitted the exporters' questionnaire response. The export chain to India consisted of HCC, Korea RP – Hanwha Corporation, Korea RP – Tricon Energy Ltd., USA – Indian customers. All export transactions for quantity \*\*\* DMT have been made through Hanwha Corporation and finally through Tricon Energy Ltd. which has raised invoices on the customers in India. The value of transaction and the expenses incurred at each stage in the aforesaid export chain have been duly verified and factored in to arrive at net export price. The Authority has adopted Tricon's invoice price to India as the base price of export. Following adjustments are considered to arrive at a net export price :-

a) expenses incurred by Tricon Energy on account of ocean freight (in two transactions), bank charges and selling expenses (US \$ \*\*\*/DMT).

- b) the margin of Hanwha Corporation in the export chain (US \$ \*\*\*/DMT).
- c) adjustments on account of credit, handling, insurance and overseas freight borne by Hanwha Chemical Corporation (US\$ \*\*\*/DMT).

Thus, the net export price for HCC (Producer) and Tricon (Exporter) is proposed to be determined as US \$ \*\*\*/DMT.

#### **Non-Cooperative exporters**

30. For the exporters in residual category, the Authority proposes to determine the export price (CIF) on the basis of the lowest invoice value of export transactions to India of the cooperative exporter i.e US\$ \*\*\*/DMT. Adjustments as claimed and verified in respect of the cooperative exporters are proposed to be considered for arriving at net export price. Thus, the export price at ex-factory level for the non-cooperative exporters of Korea RP is determined at US \$ \*\*\*/DMT.

#### **U.S.A.**

31. It is noted that no other exporter from USA except M/s. Tricon Energy Ltd. has submitted the exporters' questionnaire response. Therefore, the export price (CIF) for all exporters of USA other than M/s. Tricon Energy Ltd. is proposed to be determined at USD \*\*\*/DMT on the basis of information provided by IBIS. Adjustments of US \$ \*\*\*/DMT towards ocean freight and bank charges as per information available from the response of M/S Tricon Energy Limited, USA are proposed to be considered for arriving at export price at ex-factory level. Thus, the net export price for all exporters of USA other than M/s. Tricon Energy Ltd. is determined at US \$ \*\*\*/DMT.

#### **Saudi Arabia**

32. The Authority notes that SADAF from Saudi Arabia is the producer of subject goods which are exported to India through Shell Trading Middle East Enterprise (STME), Dubai and Petrochem Middle East, FZE, Dubai. Petrochem Middle East FZE has raised the invoices on Indian customers. The export chain to India consists of SADAF – STME – Petrochem Middle East – Indian customers. The export sales made to India in the said chain are considered for the determination

of export price. For determination of net export price, expenses incurred by Petrochem Middle East on account of commission, ocean freight, ocean insurance and credit cost totaling \*\*\*/DMT have been adjusted. Further, the expenses incurred at STME's end on account of amount of credit notes issued to Petrochem Middle East and marketing fee totaling US\$ \*\*\*/DMT have been adjusted to arrive at net export price. Thus, net export price (at ex-factory level) is determined at US\$ \*\*\*/DMT.

### **Non-Cooperative exporters**

33. For the exporters in residual category, the Authority proposes to determine the export price (CIF) on the basis of the lowest invoice value of export transactions to India of the cooperative exporter i.e US\$ \*\*\*/DMT. Adjustments as claimed and verified in respect of the cooperative exporter, i.e US\$ \*\*\*/DMT are proposed to be considered for arriving at net export price. Thus, the export price at ex-factory level for the non-cooperative exporters of Saudi Arabia is determined at US \$ \*\*\*/DMT.

### **Dumping Margins**

34. On the basis of comparison of aforesaid normal value and export price (both at ex-factory level), Dumping margin is determined as under :-

Country	Producers/ Exporters	Normal Value USD/DMT	Net Export Price USD/DMT	Dumping Margin USD/DMT	Dumping Margin Range (%)
Korea RP	Hanwha Chemical Corporation (Producer)- Hanwha Corporation- Tricon Energy Ltd. (Exporter)	***	***	(***)	(10 - 20)
	Any other	***	***	***	50 - 60

	combination				
Saudi Arabia	SADAF (Producer)- STME - Petrochem Middle East FZE, Dubai, UAE (Exporter)	***	***	***	20 -30
	Any other combination	***	***	***	50 -60
U.S.A.	All Producers/ Exporters	***	***	***	70 - 80

## **H. INJURY**

### **Submissions of Domestic Industry**

35. The Domestic Industry has submitted that subject goods from Saudi Arabia, Korea RP and USA have caused material injury to the Domestic Industry as evident from the following:

- The margin of dumping from each of the subject countries are more than the limits prescribed;
- Demand of the product in the Country has shown a positive trend, whereas sales of the Domestic Industry at the same time show a negative trend after increasing up to 2007-08. As a result, market share of the Domestic Industry declined over the injury period.
- Imports have increased significantly in relation to total imports, production and consumption in India.
- Volume of dumped imports from subject countries has increased very significantly in absolute terms in the current Period of Investigation.
- Weighted average import prices (after including basic customs duties) have been significantly below the net sales realization of the Domestic Industry. This has led to price undercutting.
- Demand showed continued increase. Sales of the Domestic Industry and consequently production and capacity utilization to some extent showed the impact of rising demand. However industry lost market share. Clearly, increase in sales is not in line with the increase in demand of product in India. With the increase in demand, sales of domestic industry should be 1102118 MT, clearly domestic industry lost sales of 105960 MT, which is very significant.

- g. The profitability of the company has deteriorated over the injury period and was negative in Period of Investigation. Despite imposition of anti dumping duty, the domestic industry is suffering financial losses;
- h. Price undercutting has led to both price suppression and depression in the market. Whereas the cost of production has increased, the selling prices have declined.
- i. Profit before interest is also negative. In other words, the domestic industry is unable to service its interest costs;
- j. Cash profit has shown a steep decline in the Period of Investigation.
- k. Return on investment declined steeply and was negative during Period of Investigation.

#### **Submissions of Importers , Exporters & Users**

36. Following arguments have been advanced by various importers, exporters and users of subject goods.

(i) No jurisdiction to conduct a review under Rule 23

The petition for Mid-Term Review and initiation of Mid-Term Review based on such petition are not sustainable in law as section 9A(5) read with rule 23 (1) provides Mid-Term Review in cases where circumstances have changed and due to that need arises to recommend for reduction or revocation of continued imposition of duty.

(ii) Two versions of the application filed

Upon verification of the public file, it is found out that there were two versions of applications filed by the domestic industry. It is not known which version was the application filed by the domestic industry based on which the initiation took place.

(iii) Grouping, Ungrouping and Re-grouping of countries not contemplated under the law:

The grouping, ungrouping and re-grouping of various countries in different original, Mid-Term Review or Sun Set Review investigation violates Rule 19 as it is discriminatory in nature. If NIP is changed then the injury margin will change for all the countries.

(iv) Form of duty cannot be changed in a review in a discriminatory manner

(v) Findings of DG Safeguards not considered by DGAD

Before initiation of Mid-Term Review the DGAD has not considered findings of DG (Safeguard), otherwise no Mid-Term Review would have initiated. Requested for considering the same before issuance of Final Finding. They submitted that the DG (Safeguard) has not recommended duty after arriving at a conclusion that no injury is caused to the Domestic Industry. They quoted certain specific paras from the Final Finding of the DG(S) in this regard.

(vi) Overstated import data presented in the petition:

Domestic Industry has overstated imports as the representative of Domestic Industry admitted also during public hearing.

(vii) Export price stated at a very low level:

Though export prices have increased substantially but due to faulty selection of POI it has been stated at very low level.

(viii) Injury to Domestic Industry

Domestic Industry is not suffering any injury as most of the economic factors show significant improvement during POI. The Profit, capacity, capacity utilization, prices, employment, etc. increased.

(ix) Other factors causing injury

- Bottleneck in capacity utilization due to declining trend in prices of Chlorine
- This price decline of Chlorine is ranging from 50% to 70%, which must be affecting the production. It is an admitted fact that when 1 MT Caustic Soda is produced then 0.89 MT Chlorine is being produced which is almost equal quantity. The price realized for Chlorine in the beginning itself was very low, which got deteriorated to a large extent further as stated above. No prudent industrial house will keep on producing a product of which prices are declining at such a sharp rate.
- Bottleneck in production due to low demand of Chlorine: In Annual Reports it has been admitted that demand of Chlorine is sluggish in the market resulting into poor off-take which further results in poor utilization of production capacity. It is again emphasized that data relating to production, storage, storage capacity, sale and off-take of chlorine need to be provided so that a fruitful comment may be made in this respect. In any case the DGAD must make a thorough analysis of this aspect before reaching to any conclusion.
- Moreover, any problem suffered by the domestic companies are not due to the alleged dumping, but due to other factors as have been stated by the companies themselves in their respective annual reports. Evidently, only **SIEL**

is lagging behind other domestic producers for reasons stated in their annual report for the year ending September 2009 as follows:

- i. *“During the period April to September 2009, the plant operated at low capacity due to reduced availability of power from Punjab State Electricity Board.”*
- ii. *“Chlorine will remain under pressure, due to surplus availability and volatility in the demand in the end-user segments”.*
- iii. *“The lower demand of Chlorine would limit the Caustic Soda production and its availability in the country”.*
- iv. *“Chlorine prices in North India will remain under pressure as demand is limited, with CPW and Paper as the only major segments utilizing Chlorine”.*
- Similarly, **Aditya Birla Group Company** has also stated the problems and risks faced by it during the year 2009-10 in their annual report. It states:
  - i. *Increase in the cost of basic raw material i.e. Salt and Coal*
  - ii. *Substantial reduction in the coal quantity in revised FSA*
  - iii. *Import threat of Caustic Soda*
  - iv. *Frequent bandhs (strikes) and extremist activities affecting movement of goods and Productivity*
  - v. *Inadequate market for Chlorine and HCL in the region leading to high logistic cost*
- Also, **Grasim** in their annual report for the year 2009-10 have stated their concern as follows:
  - i. *“Caustic prices are expected to remain under pressure due to the commissioning of new capacities coupled with cheap imports”.*
  - ii. *“Production will be curtailed in the first quarter of FY '10-11 till the onset of monsoon due to water shortage”.*

If such factors are considered, it would lead to only one possible outcome that any injury or problem faced by the domestic industry is due to its own inherent problems and not due to imports, as has been erroneously claimed by the petitioner.

(x) Geographical imbalance

There is a serious geographical imbalance between the demand and supply of subject goods. The majority of caustic soda producers are located on western coast while the major consumers i.e. aluminium mining industries are located on east coast and due to that Domestic Industry is not able to cater demand in time.

### **Examination by the Authority**

37. The Authority has examined the major submissions of the interested parties with regard to injury to the domestic industry as under :-

- a. As regards geographical imbalance in the location of the domestic industry of subject goods vis-à-vis location of user industry, the Authority notes that the same logic applies to the imports as well, a large part of which lands on the Western coast, as per information available.
- b. As regards factoring in of chlorine in the injury analysis, the Authority notes that chlorine has been treated as a by-product/joint product, as per the cost records maintained by the respective interested parties. This has been the consistent practice of the Authority in all the previous investigations concerning the subject goods hitherto conducted. The Authority also notes that the CESTAT order in this regard has been appealed against in Hon'ble Supreme Court and the matter has since been stayed by Hon'ble Supreme Court.
- c. As regards jurisdiction under Rule 23, the Authority notes that all mid-term reviews so far conducted by the Authority are under Rule 23. The present review is on the basis of changed circumstances.
- d. Regarding grouping/re-grouping of countries covered under different investigations, the Authority notes that there is no barrier under the law in this regard.
- e. With regard to over-stated import data, the Authority notes that the domestic industry has already clarified the error in this regard by way of repeated import transactions which has occurred at the end of data agency namely IBIS on which the domestic industry relied. The import data has now been rectified.
- f. As regards injury to the domestic industry, the Authority has examined the economic parameters as required under the Anti-Dumping Rules and the Authority's comments in this regard have been provided at appropriate places in the Disclosure statement.
- g. The Authority notes that present petition has been filed by Alkali Manufacturing Association of India on behalf of the domestic industry. Gujarat Alkalies & Chemicals Limited, Grasim Industries Limited, DCM Shriram Consolidated

Limited, SIEL Industrial Complex (A Unit of Mawana Sugars Limited), Bihar Caustic & Chemicals Limited (now known as Aditya Birla Chemicals (India) Limited). These producers are eligible domestic producers under Rule 2(b). Further, production of these producers collectively account for a major proportion in Indian production. These companies have been considered as participating companies.

- h. Post initiation, Solaris Chemtech Limited and DCW Limited also provided their injury information. However, the interested parties present at the time of oral hearing objected to addition of information from more domestic producers after initiation and demanded that the Authority should not consider their information for injury assessment. Considering the objection raised by the opposing interested parties and considering the fact that the aforesaid two companies have submitted their injury information belatedly, the Authority decided not to consider the information filed by DCW Ltd. and Solaris Ltd. and informed the interested parties about the same.
- i. The participating companies collectively constitute domestic industry under the Rules. The authority has examined injury to the domestic industry with regard to these participating companies. The issues raised by interested parties in relation to injury have been duly examined by the Authority in appropriate places in the findings.

#### **Cumulative assessment of Injury**

38. Annexure II (iii) of the Anti Dumping Rules requires that in case imports of a product from more than one country are being simultaneously subject to anti dumping investigations, the Designated Authority will cumulatively assess the effect of such dumped imports, in case it determines that:

- (i). the margin of dumping established in relation to the imports from each country is more than two percent expressed as percentage of export price and the volume of the imports from each country is three percent of the imports of the like article or where the export of the individual countries less than three percent, the imports cumulatively accounts for more than seven percent of the imports of like article, and;
- (ii). cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic articles.

39. Annexure-II of the AD Rules provide for an objective examination of both (a) the volume of dumped imports and the effect of the dumped imports on prices in the domestic market for the like products; and (b) the consequent impact of these imports on domestic producers of such products. With regard to the volume effect of the dumped imports, the Authority is required to examine whether there has been a significant increase in dumped imports, either in absolute term or relative to production or consumption in India. With regard to the price effect of the dumped imports, the Authority is required to examine whether there has been significant price undercutting by the dumped imports as compared to the price of the like product in India, or whether the effect of such imports is otherwise to depress the prices to a significant degree, or prevent price increases, which would have otherwise occurred to a significant degree.
40. As regards the impact of the dumped imports on the domestic industry para (iv) of Annexure-II of the AD Rules states as follows.

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

41. Relevant economic parameters affecting the Domestic Industry as indicated above such as production, capacity utilization, sales volume, etc. have been examined as under.

### **Volume Effects of Dumped Imports:**

#### **Import Volumes and Market Share**

42. Annexure-II (ii) of the AD Rules provides that “while examining the volume of dumped imports, the said Authority shall consider whether there has been a significant increase in the dumped imports either in absolute term or relative to production or consumption in India ...” Thus, with regard to

the volume of the dumped imports, it has been examined whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India. For the purpose of volume injury analysis the Authority has relied on import data sourced from IBIS as IBIS has reported higher volume than the DGCI&S when transaction wise imports are available from both sources. Accordingly, volume of imports of the subject goods from the subject countries have been analyzed as under

Particulars	Unit	2006-07	2007-08	2008-09	Oct'08- Dec'09 Annualised
Imports					
Subject Countries	MT	31725	17357	23463	1,14,565
Countries under parallel dumping investigations	MT	10	3,612	16,941	77,590
Dumped imports under investigations	MT	31735	20969	40404	1,92,154
Other Countries	MT	1,56,593	1,26,053	1,36,037	1,04,771
Total Imports	MT	1,88,328	1,47,022	1,76,441	2,96,926

**Market Share of subject Imports in the total imports**

Subject Countries	%	16.85	11.81	13.3	38.58
Countries under parallel dumping investigations	%	0.01	2.46	9.6	26.13
Dumped imports under investigations	%	16.85	14.26	22.9	64.71
Other Countries	%	83.15	85.74	77.1	35.29
Total Imports	%	100	100	100	100
Share of subject dumped imports in relating to production of domestic industry	%	3.93	1.93	2.57	12.28
Share of subject dumped imports in	%	1.61	0.85	1.10	5.08

relating to consumption in India				
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43. Imports of the subject product from subject countries have increased significantly in absolute volumes and the increase was quite significant (nearly four fold) in period of investigation compared with the base year. It is noted that imports from other countries, separately under investigation, have also increased significantly. It is also noted that imports from third countries, though significant, have declined over the injury period.
44. Share of subject countries in total imports of the product has increased significantly from base year to period of investigation. Imports from other countries for which parallel investigation is being conducted have also increased over the injury period. The cumulative imports from countries at present under investigation have increased from 16.85% in 2006-07 to 64.71% in period of investigation.
45. Imports of subject goods from subject countries in relation to production as well as consumption in India have also increased during the POI compared to the base year.
46. On the basis of the above, the authority concludes that imports of the product from subject countries have increased significantly in absolute terms and in relation to production and consumption in India.

#### **Price effect of imports**

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

countries. The net sales realization was arrived after deducting all rebates and taxes. Landed value of imports has been calculated by adding 1% handling charge, applicable basic customs duty and applicable cess to the CIF value of subject imports. The landed value of imports was compared with net sales realization of the domestic industry and it was found that the dumped imports are undercutting the prices of the domestic industry.

### **Price undercutting**

48. In order to determine whether the imports are undercutting the prices of the domestic industry in the market, the Authority has compared landed price of imports with net sales realization of the domestic industry. Authority has determined net sales realization considering selling price, excluding taxes & duties, rebates, discounts & commissions. Entire sales volumes of the domestic industry have been included in the calculations. Landed price of imports has been determined considering weighted average CIF import price, with 1% landing charges, applicable basic customs duty and applicable cess. The comparison was done between net sales realization and landed price of imports.

(Rs./MT)

SN	Particular	Landed price	Net Selling price of DI	Price Undercutting (amount)	Price Undercutting Range (%)
1	Korea RP	***	***	***	20 -30
2	U.S.A.	***	***	***	10 – 20
3	Saudi Arabia	***	***	***	10 – 20
4	Subject Countries	***	***	***	10 - 20

49. It is seen from the above that the landed price of imports of the subject goods are below the net selling prices of the domestic industry, resulting in significant price undercutting.

### **Price suppression**

50. In order to determine whether the dumped imports are suppressing the domestic prices, the Authority determined whether the effect of such imports is to prevent price increases, which otherwise would have occurred. For the

purpose, the import prices of subject goods have been compared with the trends in cost of production and selling price of the domestic industry.

SN	Particulars	Unit	2006-07	2007-08	2008-09	POI
1	Cost of Sales	Rs./MT	***	***	***	***
	Trend	Indexed	100	97	126.72	133.40
2	Net Selling price	Rs./MT	***	***	***	***
	Trend	Indexed	100	96.19	121.12	112.38

51. From the above, it is noted that there is an increase in both the cost of sales as well as the selling price of the domestic industry during POI, as compared to the base year. However, the increase in selling price is proportionately lower than the increase in the cost of sales. Thus the domestic Industry has not been able to realize prices of the subject goods commensurate with the increase in the cost of production. Thus, price suppression has taken place during the POI.

#### **Economic parameters of the domestic industry**

52. As regards the impact of the dumped imports on the domestic industry para (iv) of Annexure-II of the AD Rules states as follows.

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

53. The various injury parameters relating to the domestic industry are examined as follows.

#### **Production, capacity utilization and Market share of the Domestic Industry**

Particulars	Unit	2006-07	2007-08	2008-09	Oct'08-Dec'09	Oct'08-Dec'09 Annualised
Capacity	MT	***	***	***	***	***
Production	MT	***	***	***	***	***
Capacity Utilization	%	86%	90%	87%	86%	86%
Domestic Sales Volume – Petitioner	MT	***	***	***	***	***
Domestic Sales- Other Domestic producers	MT	***	***	***	***	***
Total import	MT	***	***	***	***	***
Demand	MT	***	***	***	***	***
Market share of domestic industry	%	38.49	41.87	40.66	39.25	39.25

54. The authority notes that the domestic industry has added capacity over the injury period. Production of the domestic industry has shown increase over the period. Capacity utilization has remained stable during the injury period. Sales of the domestic industry in the domestic market show continued increase. The market share of the domestic industry has remained more or less stable during the injury period.

#### **Profit/Loss, cash profit and return on investment**

SN	Particulars	Unit	2006-07	2007-08	2008-09	Oct'08-Dec'09
1	Profit/loss – lye	Rs/MT	***	***	***	***
	Trend	Indexed	100	94	105	53
2	Profit/loss – flakes	Rs/MT	***	***	***	Neg.
	Trend	Indexed	100	108	133	-31

3	Profit before interest	Rs.Lacs	***	***	***	***
	Trend	Indexed	100	105	122	73
4	Profit/Loss – Lye plus Flake	Rs/Lakh	***	***	***	***
	Trend	Indexed	100	107	124	64
5	Cash Profit	Rs.Lacs	***	***	***	***
	Trend	Indexed	100	110	135	95
7	Capital employed NFA	Rs.Lacs	***	***	***	***
	Trend	Indexed	100	99	125	118
8	Return on investments – NFA	%	***	***	***	***
	Trend	Indexed	100	106	98	50

55. The authority notes that profits of the domestic industry per unit is significantly reduced during the POI compared to the base year. As a result profits before interest tax also dropped significantly in period of investigation. As a result of decline in profitability, return on investment, which was improving between 2006-07 to 2008-09, dropped significantly in the period of investigation.

56. The authority has determined impact of dumping on the cash flow by considering cash profits generated from production and sales in the domestic market. It is noted that cash profits also declined in the period of investigation.

57. On the basis of the above, the authority proposes to conclude that the performance of the domestic industry deteriorated on account of profits, return on investment and cash flows.

#### **Average Inventory**

SN	Particulars	UOM	2006-07	2007-08	2008-09	Oct'08-Dec'09 Annualized
1	Average Inventory	MT.	2,864	5,341	6,261	10,579

Trends	Indexed	100	186	219	369
Inventory per day	MT	7.85	14.63	17.15	28.98

58. From the above it is seen that both average inventory as well as inventory per day have drastically increased during the POI.

### **Employment and wages**

SN	Particulars	UOM	2006-07	2007-08	2008-09	Oct'08-Dec'09 Annualized
1	Number of Employee	Nos.	***	***	***	***
	Trends	Indexed	100	91	89	88
2	Wages	Rs./Lacs	***	***	***	***
	Trend	Indexed	100	106	132	129
3	Wage cost per unit of production	Rs./MT	***	***	***	***
	Trend	Indexed	100	95	117	112

59. It is noted that the numbers of employees declined over the period. Further, wages paid have increased which appears consistent with the normal increase in wages.

### **Magnitude of Dumping**

60. Magnitude of dumping as an indicator of the extent to which the dumped imports have caused injury to the domestic industry shows that the dumping margin determined for the subject countries are significant.

### **Factors affecting prices**

61. Examination of the trend in the volume of dumped imports from the subject country indicates significant increase in volume of dumped imports from subject countries. Price undercutting, price suppression and price underselling effects are also found to be positive.

### **Conclusion on injury parameters**

62. It is thus seen that:

- i. Imports from subject countries have increased in absolute terms. The increase in imports is significant. Imports have increased in relation to production and consumption in India.
- ii. Imports are undercutting the prices of domestic industry to a significant extent.
- iii. Domestic industry has been forced to reduce the prices in a situation where its cost of production has increased. The imports are thus suppressing the domestic industry's prices.
- iv. Profits, return on investment and cash profits of the domestic industry declined in POI compared to the base year.
- v. Inventories with the domestic industry have increased substantially.
- vi. Dumping margins as a parameter of injury are quite significant.
- vii. Production of the domestic industry increased during POI compared to the base year and the capacity utilization has remained more or less stable.
- viii. Domestic sales increased over the injury period.
- ix. Wages and productivity does not show adverse impact of dumping. However, deterioration has taken place on other vital parameters of injury including the financial parameters.

63. On the basis of the above, the Authority concludes that the domestic industry has suffered material injury on vital economic parameters.

#### **Other Known Injury factors and Causal Link**

64. Having examined the existence of material injury, volume and price effects of dumped imports on the prices of the domestic industry, in terms of its price underselling and price suppression, and depression effects, other indicative parameters listed under the ADRules have been examined to see whether any other factor, other than the dumped imports could have contributed to injury to the domestic industry. Accordingly, the following parameters have been examined:-

##### **i. Volume and prices of imports from other sources**

During POI, imports of the subject goods from countries other than the subject country have been significant in volume. The Authority therefore examined imports from third countries. The Authority notes that imports beyond de-minimus levels have been reported from USA, Saudi Arabia, South Korea, China and Indonesia. The Authority is conducting midterm review investigation in respect of imports from USA, Saudi Arabia, South Korea. As regards China & Indonesia, the Authority notes that anti dumping duties are already in place.

**ii. Contraction in demand**

Demand for the subject goods has shown positive growth during the entire injury investigation period and therefore, the injury to the domestic industry cannot be attributed to the lack of demand in the country.

**iii. Change in pattern of consumption**

The data on consumption does not show any significant change in the pattern of consumption of the product.

**iv. Developments in technology**

There is no evidence of significant changes in technology submitted by any interested party, which could have caused injury to the domestic industry.

**v. Trade restrictive practices of and competition between the foreign and domestic producers**

The subject goods are freely importable. The domestic industry constituents are major producers of the subject goods and account for significant domestic production and sales. No other evidence of conditions of competition or trade restrictive practices has been brought to the attention of the Authority by any interested party.

**vi. Export performance of the domestic industry**

The export sales of the domestic industry is too insignificant in volume to cause any injury to the domestic industry.

**vii. Productivity of the Domestic Industry**

Productivity of the domestic industry in terms of production per employee or production per day has improved. Possible decline in productivity cannot be a factor causing injury to the domestic industry.

65. The aforesaid non-attribution analysis shows that no other known factors appear to have caused injury to the domestic industry

#### **Factors establishing causal link**

66. Analysis of the performance of the domestic industry over the injury period shows that the performance of the domestic industry has materially deteriorated on vital economic parameters. The causal link between dumped imports and the injury to the domestic industry is analysed on the following grounds:

(i) The volume of dumped import from the subject countries and other countries under investigation increased significantly.

(ii) The subject imports were significantly undercutting the prices of the domestic industry. Consequently, the domestic industry has been forced to sell at reduced prices vis-a-vis the increased cost of production. The dumped imports, thus, have caused price suppression.

(iii) Performance of the domestic industry with regard to vital financial parameters such as profits, cash flow and return on investments deteriorated as a result of price suppression.

67. Therefore, the Authority concludes that the domestic industry suffered material injury due to dumped imports.

#### **Magnitude of Injury and injury margin**

68. The non-injurious price of the subject goods produced by the domestic industry as determined by the Authority has been compared with the landed value of the exports from the subject countries for determination of injury margin during POI. Thus compared, the injury margin is determined as under:-

Country	Producers/ Exporters	Landed Price Rs./MT	Non Injurious Price Rs./MT	Injury Margin Rs./MT	Injury Margin US\$./MT
Korea RP	Hanwha Chemical Corporation (Producer)- Hanwha Corporation - Tricon Energy Ltd. (Exporter)	***	***	***	***
	Any other combination	***	***	***	***
Saudi Arabia	SADAF (Producer)- STME- Petrochem Middle East FZE, Dubai, UAE (Exporter)	***	***	***	***
	Any other combination	***	***	***	***
U.S.A.	All Producers/ Exporters	***	***	***	***

### **I. Likelihood of continuation or recurrence of injury**

69. The Authority notes that dumping is continuing from subject countries in spite of the anti-dumping duty in force and domestic industry continues to suffer material injury due to such dump imports. Therefore, further examination of the likelihood of recurrence of dumping and injury is not required.

### **J. Conclusions**

70. The Authority has, after considering the foregoing, come to the conclusion that:

- The subject goods have been exported to India from the subject countries below its normal value;
- The domestic industry has suffered material injury;
- The injury has been caused by the dumped imports from subject countries.

### **K. Indian Industry's Interest & Other Issues**

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

72. 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 measures would not restrict imports from the subject countries in any way, and, therefore, would not affect the availability of the products to the consumers.

#### **L. Recommendation**

73 Having regard to the lesser duty rule followed by the authority, the Authority recommends imposition of definitive anti-dumping duty equal to the lesser of margin of dumping and margin of injury, so as to remove the injury to the domestic industry. Accordingly, the definitive anti-dumping duty equivalent to the difference between the reference price indicated in Col.8 of the table below and the landed value of the subject goods, in case the landed value at the time of importation is below the value indicated at Col.8, is recommended to be imposed on all imports of subject goods originating in or exported from subject countries, from the date of notification to be issued in this regard by the Central Government:

S. No	Sub-heading	Description of goods	Country of Origin	Country of Export	Producer	Exporter	Amount (USD/DMT)
1	2	3	4	5	6	7	8
1.	281511 281512	Caustic soda (Lye & Solid/Flakes)	Korea RP	Korea RP	M/s Hanwha Chemical Corporation	Tricon Energy Limted, USA through M/s Hanwha Corporation	Not Applicable
2.	- do -	- do -	Korea RP	Korea RP	Any combination other than at Sl. No.1 above		366
3.	- do -	- do -	Korea RP	Any country	Any	Any	366

				other than Korea RP			
4.	- do -	- do -	Any country other than subject countries	Korea RP	Any	Any	366
5.	- do -	- do -	Saudi Arabia	Saudi Arabia	SADAF	Petrochem Middle East FZE, UAE through Shell Trading Middle East (STME)	379
6.	- do -	- do -	Saudi Arabia	Saudi Arabia	Any combination other than at Sl. No.5 above		379
7.	- do -	- do -	Saudi Arabia	Any country other than Saudi Arabia	Any	Any	379
8.	- do -	- do -	Any country other than subject countries	Saudi Arabia	Any	Any	379
9.	- do -	- do -	USA	USA	Any	Any	379
10.	- do -	- do -	USA	Any country other than USA	Any	Any	379
11.	- do -	- do -	Any country other than subject countries	USA	Any	Any	379

For the purpose of this notification, “landed value” means the assessable value as determined under the Customs Act, 1962 (52 of 1962) and includes all duties of customs except duties levied under sections 3, 3A, 8B, 9 and 9A of the said Act.

**M. Further Procedure:**

74. An appeal against the orders 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.

**(Vijaylaxmi Joshi)**